

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 576, As Amended in the Senate

BY REVENUE AND TAXATION COMMITTEE

AN ACT

RELATING TO THE SOIL CONSERVATION DISTRICT LAW; AMENDING SECTION 22-2716, IDAHO CODE, TO REVISE THE NAME OF A CERTAIN COMMISSION; AMENDING SECTION 22-2717, IDAHO CODE, TO DEFINE A TERM, TO REMOVE DEFINITIONS, TO REVISE THE NAME OF A CERTAIN COMMISSION AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 22-2718, IDAHO CODE, TO REVISE THE NAME OF A CERTAIN COMMISSION, TO REVISE REQUIREMENTS RELATING TO THE QUALIFICATIONS AND APPOINTMENT OF SUCH COMMISSION MEMBERS, TO DELETE REFERENCE TO THE IDAHO ASSOCIATION OF SOIL CONSERVATION DISTRICTS, TO REVISE PROVISIONS RELATING TO THE POWERS AND DUTIES OF SUCH COMMISSION AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 22-2719, IDAHO CODE, TO REVISE THE NAME OF A CERTAIN COMMISSION AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 22-2720, IDAHO CODE, TO REVISE THE NAME OF A CERTAIN COMMISSION, TO PROVIDE REQUIREMENTS FOR DISTRICTS FORMED BY CONSOLIDATION, TO PROVIDE FOR THE ALLOCATION OF FUNDS TO DISTRICTS FORMED BY CONSOLIDATION AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 22-2721, IDAHO CODE, TO REVISE THE NAME OF A CERTAIN COMMISSION, TO PROVIDE THAT SUPERVISORS SHALL BE REGISTERED TO VOTE IN THE STATE OF IDAHO, TO REVISE AUDIT REQUIREMENTS FOR DISTRICTS, TO PROVIDE THAT SUPERVISORS ARE SUBJECT TO RECALL AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 22-2721, IDAHO CODE, AS AMENDED BY SECTION 4, CHAPTER 341, LAWS OF 2009, TO REVISE THE NAME OF A CERTAIN COMMISSION, TO PROVIDE THAT SUPERVISORS SHALL BE REGISTERED TO VOTE IN THE STATE OF IDAHO, TO REVISE AUDIT REQUIREMENTS FOR DISTRICTS, TO PROVIDE THAT SUPERVISORS ARE SUBJECT TO RECALL AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 22-2723, IDAHO CODE, TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 22-2724, IDAHO CODE, TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 22-2725, IDAHO CODE, TO REVISE THE NAME OF A CERTAIN COMMISSION AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 22-2725, IDAHO CODE, AS AMENDED BY SECTION 5, CHAPTER 341, LAWS OF 2009, TO REVISE THE NAME OF A CERTAIN COMMISSION AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 22-2727, IDAHO CODE, TO REVISE THE NAME OF A CERTAIN COMMISSION, TO INCREASE THE MAXIMUM ALLOCATION OF FUNDS TO DISTRICTS, TO SPECIFY THAT CERTAIN ALLOCATIONS TO DISTRICTS ARE BASED UPON A PREVIOUS FISCAL YEAR ALLOCATION, TO PROVIDE THAT A DISTRICT ALLOCATION SHALL NOT EXCEED A CERTAIN AMOUNT IN A FISCAL YEAR AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 22-2730, IDAHO CODE, TO REVISE THE NAME OF A CERTAIN COMMISSION AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 22-2731, IDAHO CODE, TO REVISE THE NAME OF A CERTAIN COMMISSION AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 22-2732, IDAHO CODE, TO REVISE THE NAME OF A CERTAIN COMMISSION, TO REQUIRE SOIL CONSERVATION DISTRICTS AND THE STATE SOIL AND WATER CONSERVATION COMMISSION TO KEEP EACH OTHER INFORMED OF LOAN APPLICATIONS RECEIVED AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 22-2733, IDAHO CODE, TO REVISE THE NAME OF A CERTAIN COMMISSION AND TO MAKE TECHNICAL CORRECTIONS; AMENDING

SECTION 22-2734, IDAHO CODE, TO REVISE THE NAME OF A CERTAIN COMMISSION AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 22-2735, IDAHO CODE, TO REVISE THE NAME OF A CERTAIN COMMISSION, TO REQUIRE THAT CERTAIN VOUCHERS BE APPROVED BY THE CHAIRMAN AND THE ADMINISTRATOR OF THE STATE SOIL AND WATER CONSERVATION COMMISSION AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 22-5201, IDAHO CODE, TO REVISE THE NAME OF A CERTAIN COMMISSION; AMENDING SECTION 22-5202, IDAHO CODE, TO REVISE THE NAME OF A CERTAIN COMMISSION; AMENDING SECTION 22-5203, IDAHO CODE, TO REVISE THE NAME OF A CERTAIN COMMISSION; AMENDING SECTION 22-5205, IDAHO CODE, TO REVISE THE NAME OF A CERTAIN COMMISSION; AMENDING SECTION 22-5206, IDAHO CODE, TO REVISE THE NAME OF A CERTAIN COMMISSION; AMENDING SECTION 36-2404, IDAHO CODE, TO REVISE THE NAME OF A CERTAIN COMMISSION; AMENDING SECTION 39-3602, IDAHO CODE, TO REVISE THE NAME OF A CERTAIN COMMISSION; AMENDING SECTION 39-6407, IDAHO CODE, TO REVISE THE NAME OF A CERTAIN COMMISSION AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 39-6609, IDAHO CODE, TO REVISE THE NAME OF A CERTAIN COMMISSION AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 42-3703, IDAHO CODE, TO REVISE THE NAME OF A CERTAIN COMMISSION AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 42-3705, IDAHO CODE, TO REVISE THE NAME OF A CERTAIN COMMISSION; AMENDING SECTION 42-3706, IDAHO CODE, TO REVISE THE NAME OF A CERTAIN COMMISSION; AMENDING SECTION 42-3707, IDAHO CODE, TO REVISE THE NAME OF A CERTAIN COMMISSION AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 42-3717, IDAHO CODE, TO REVISE THE NAME OF A CERTAIN COMMISSION AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 67-818, IDAHO CODE, TO REVISE THE NAME OF A CERTAIN COMMISSION.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 22-2716, Idaho Code, be, and the same is hereby amended to read as follows:

22-2716. LEGISLATIVE DETERMINATION AND DECLARATION OF POLICY. (1) It is the determination of the state of Idaho that:

(a) Forest lands, rangelands and agricultural lands maintained in a healthy condition are a legitimate land use contributing to the economic, social and environmental well-being of the state and its citizens;

(b) It is essential to the general welfare of all citizens of this state that multiple use conservation improvements be implemented on a broader scale on both public and private lands;

(c) Due to numerous economic and practical issues relating to the improvements of individual tracts of land, both public and private resource conservation improvements, projects and programs of the nature contemplated by this chapter would enhance the economic productivity and environmental quality of the state; and

(d) It is sound public policy for the state of Idaho to provide for accounts to finance loans, grants, cost-share funding and tax incentives to the end that forest lands, rangelands and agricultural lands within the state can provide the greatest benefit to all concerned.

1       (2) It is the intent of the state of Idaho to provide a means by which  
2 funds, including federal, state, private and other moneys, can be obtained  
3 and utilized for the accelerated development of water quality programs,  
4 multiple use forest land, rangeland, and agricultural land conservation  
5 improvements in the state, and to provide that these improvements, projects  
6 and programs be locally planned, coordinated and implemented through statu-  
7 tory provisions pertaining to soil conservation districts, the state soil  
8 and water conservation commission, appropriate state and federal agencies,  
9 and the owners and operators of privately owned lands.

10       (3) It is in the best interest of the state of Idaho:

11       (a) To emphasize nonregulatory, science-based technical assistance,  
12 incentive-based financial programs and informational and educational  
13 programs at the local level;

14       (b) To maintain, preserve, conserve and rehabilitate forest lands,  
15 rangelands and agricultural lands to assure the protection and produc-  
16 tivity of the state's natural resources;

17       (c) That soil conservation districts, as governmental subdivisions,  
18 and the state soil and water conservation commission, as a state agency,  
19 are the primary entities to provide assistance to private landowners  
20 and land users in the conservation, sustainment, improvement and  
21 enhancement of Idaho's natural resources;

22       (d) To establish policies for cooperative working relationships  
23 between local soil conservation districts, the state soil and water  
24 conservation commission, local, state and federal agencies and public  
25 and private groups to plan, develop and implement conservation goals  
26 and initiatives with local landowners and land users;

27       (e) That soil conservation districts and the state soil and water con-  
28 servation commission lead nonregulatory efforts to conserve, sustain,  
29 improve and enhance Idaho's private and state lands and to provide  
30 assistance to private landowners and land users to plan, develop and  
31 implement conservation plans addressing soil, water, air, plant and  
32 animal resources. Technical, financial and educational assistance to  
33 landowners and land users is vital to that effort; and

34       (f) That the state soil and water conservation commission provide sup-  
35 port to soil conservation districts in the wise use and enhancement of  
36 soil, water and related resources.

37       (4) It is the policy of the state of Idaho:

38       (a) To provide appropriate tax policies and program mechanisms that  
39 provide incentives for private landowners and land users to voluntarily  
40 manage forest lands, rangelands and agricultural lands in a manner that  
41 promotes conservation;

42       (b) That the health, safety and general welfare of the people of this  
43 state can be greatly enhanced by providing nonregulatory opportunities  
44 to landowners and land users in order to increase the ability of such  
45 landowners and land users to readily understand and plan for local,  
46 state and federal natural resource requirements and opportunities  
47 through technological innovation and processes;

48       (c) To enhance natural resource productivity in order to promote a  
49 strong natural resource sector, reduce unintended adverse effects of

resource development and use, protect individual and community health and safety and encourage stewardship;

(d) That conservation plan implementation shall include best management practices implemented according to the standards and specifications developed by the United States department of agriculture natural resources conservation service (NRCS) as designated by the agricultural pollution abatement plan. Those practices shall include, but not be limited to: irrigation water management systems; prescribed grazing; forest stand improvement; establishment of grass, trees and shrubs to reduce wind and water erosion; promotion of sound community development; protection of water and air resources from agricultural nonpoint sources of impairment; maintenance, restoration or enhancement of wetlands and fish and wildlife habitat; protection of upstream watersheds from flood risk; and protection of watersheds from the effects of chronic water shortages and risks; and

(e) That all conservation programs authorized pursuant to this chapter shall deliver services fairly and equitably, strengthen the conservation district delivery system, provide timely science-based information and provide conservation information and educational programs and experiences to youth and adults.

SECTION 2. That Section 22-2717, Idaho Code, be, and the same is hereby amended to read as follows:

22-2717. DEFINITIONS. Whenever used or referred to in this chapter, unless a different meaning clearly appears from the context:

(1) "Administrator" means the administrator for the Idaho state soil and water conservation commission.

(2) ~~"Agency of this state"~~ includes the government of this state and any subdivision, agency, or instrumentality, corporate or otherwise, of the government of this state.

(23) "Agricultural pollution abatement plan" or "ag plan" means the document developed by the state soil and water conservation commission and approved by the commission and the department of environmental quality, that provides appropriate technical, programmatic, informational and educational processes, guidelines and policies for addressing agricultural pollution.

~~(3) "Agriculture" or "department of agriculture" means an executive department of state government created in section 22-101, Idaho Code.~~

(4) "Best management practices" or "BMPs" means practices, techniques, or measures developed or identified by the designated agency and identified in the state water quality management plan which are determined to be a cost-effective and practicable means of preventing or reducing pollutants generated from nonpoint sources to a level compatible with water quality goals.

(5) "Commission" or "state soil and water conservation commission" means the agency created in section 22-2718, Idaho Code.

(6) "Conservation plan" means a description of identified natural resource issues and a specific schedule of implementation of component practices necessary to resolve those specific resource issues as agreed upon by the landowner.

(7) "Designated agency" is as defined in section 39-3602, Idaho Code.

(8) "District," "conservation district," "soil conservation district," or "soil and water conservation district" means a governmental subdivision(s) of this state, and a public body corporate and politic, organized in accordance with the provisions of this ~~act~~ chapter, for the purposes, with the powers~~7~~ and subject to the restrictions hereinafter set forth.

(9) "Due notice" means notice published at least twice, with an interval of at least seven (7) days between the two (2) publication dates, in a newspaper or other publication of general circulation within the appropriate area, or if no such publication of general circulation be available, by posting at a reasonable number of conspicuous places within the appropriate area, such posting to include, where possible, posting at public places where it may be customary to post notices concerning county or municipal affairs generally. At any hearing held pursuant to such notice, at the time and place designated in such notice, adjournment may be made from time to time without the necessity of renewing such notice for such adjournment dates.

(10) "Eligible applicant" means an individual agricultural owner, operator, partnership, corporation, conservation district, irrigation district, canal company or other agricultural or grazing interest.

(11) "Government" or "governmental" includes the government of this state, the government of the United States, and any subdivisions, agency, or instrumentality, corporate or otherwise, of either of them.

~~(12) "Idaho association of soil conservation districts (IASCD)" means an incorporated, nongovernmental entity representing all soil conservation districts in Idaho.~~

~~(13)~~ "Idaho OnePlan" means a computer-based system for improving efficiency and effectiveness of natural resource planning by landowners and land users.

(143) "Landowner" or "owner" includes any person, firm, or corporation who shall hold title to any lands lying within a district organized under the provisions of this chapter. A buyer on contract, who is the occupier of land, shall be construed as landowner.

(154) "Land user" means any entity with a lease, permit or similar business agreement with a landowner to implement, manage or utilize such land for activities related to use of the land.

(165) "Natural resources conservation service" or "NRCS" means the agency governed by the provisions of 16 U.S.C. sections 590a through 590d and 590f.

(176) "Nominating petition" means a petition filed under the provisions of section 22-2721, Idaho Code, to nominate candidates for the office of supervisor of a soil conservation district.

~~(187)~~ "Participant" means an individual agricultural owner, operator, partnership, private corporation, conservation district, irrigation district, canal company, or other agricultural or grazing interest approved by the commission or an individual agricultural owner, operator, partnership, or private corporation approved for implementation of conservation improvements, projects, or the water quality program for agriculture.

(198) "Petition" means a petition filed under the provisions of subsection ~~A.~~ (1) of section 22-2719, Idaho Code, for the creation of a district.

(2019) "Project sponsor" means a conservation district, irrigation district, canal company, or other agricultural or grazing interest, as determined appropriate by the commission, that enters into a conservation improvement or water quality project agreement with the commission.

(210) "Qualified elector" means any person who is qualified to vote pursuant to the requirements of section 34-104, Idaho Code.

(221) "Riparian land" means the beds of streams, the adjacent vegetation communities and the land thereunder, which are predominately influenced by their association with water and are privately owned.

(232) "Specifications" means the materials, operations and procedures necessary to obtain the desired standards of construction and installation.

(243) "Standards" means the minimum limits of technical excellence of a component practice for its planning, design and construction.

(254) "State" means the state of Idaho.

(265) "Supervisor" means one (1) of the members of the governing body of a district elected or appointed in accordance with the provisions of this ~~act~~ chapter.

(276) "Total maximum daily load" is as defined in section 39-3602, Idaho Code.

(287) "United States" or "agencies of the United States" includes the United States of America, the natural resources conservation service of the United States department of agriculture, and any other agency or instrumentality, corporate or otherwise, of the United States of America.

SECTION 3. That Section 22-2718, Idaho Code, be, and the same is hereby amended to read as follows:

22-2718. IDAHO STATE SOIL AND WATER CONSERVATION COMMISSION. (1) There is hereby established and created in the department of agriculture of the state of Idaho the Idaho state soil and water conservation commission which shall ~~in cooperation with the director of the department of agriculture~~ perform all functions conferred upon it by this chapter. ~~The soil conservation commission and shall be a nonregulatory agency. The commission shall consist of five (5) members appointed by the governor, but no more than three (3) members shall be a member of the same political party. In appointing commission members, the governor shall give consideration to geographic representation. Commission members shall be chosen with due regard to their demonstrated expertise including, but not limited to, knowledge of and interest in water quality and other natural resource issues, production agriculture, banking or other similar financial experience or experience as a county commissioner. The soil and water conservation districts may submit to the governor a list of up to three (3) names for each vacancy on the commission and the governor may, in his discretion, consider any such submission in the appointment of commission members. The term of office of each commission member shall be five (5) years; except that upon July 1, 1967 2010, the governor shall appoint one (1) member for a term of one (1) year, one (1) member for a term of two (2) years, one (1) member for a term of three (3) years, one (1) member for a term of four (4) years and one (1) member for a term of five (5) years. From and after the initial appointment the governor shall appoint a member of the commission to serve in office for a term of five (5) years commencing upon July 1 of that year. A vacancy~~

1 which occurs in an unexpired term shall be filled for its remainder by the  
 2 governor's appointment. ~~Any commissioner may be removed during his term of~~  
 3 ~~office by the governor. Any commissioner so removed shall have notice of~~  
 4 ~~the same in writing, specifying the reasons for the removal.~~ Each vacancy  
 5 on the commission shall be filled by appointment by the governor. Such  
 6 appointments shall be confirmed by the senate. Commission members shall  
 7 serve at the pleasure of the governor. The commission may invite the state  
 8 conservationist of the United States department of agriculture natural  
 9 resources conservation service, ~~the president of the Idaho association~~  
 10 ~~of soil conservation~~ a representative from a district or districts and  
 11 the dean of the college of agriculture of the university of Idaho or his  
 12 designated representative, or any other person or entity as the commission  
 13 deems appropriate, to serve as nonvoting advisory members of the commission.  
 14 The commission shall keep a record of its official actions, shall adopt a  
 15 seal, which seal shall be judicially noticed, and may perform such acts, hold  
 16 such public hearings, and promulgate such rules as may be necessary for the  
 17 execution of its functions under this chapter.

18 (2) ~~The director of the department of agriculture~~ state soil and water  
 19 conservation commission shall appoint the administrator of the state soil  
 20 and water conservation commission ~~from persons recommended by the soil con-~~  
 21 ~~servation commission.~~ The state soil and water conservation commission may  
 22 employ such technical experts and such other agents and employees, permanent  
 23 and temporary, as it may require, and shall determine their qualifications,  
 24 duties and compensation. The commission may call upon the attorney general  
 25 of the state for such legal services as it may require. It shall have author-  
 26 ity to delegate to its chairman, to one (1) or more of its members, or to one  
 27 (1) or more agents or employees, such powers and duties as it may deem proper.  
 28 ~~It shall be supplied with suitable office accommodations, and shall be fur-~~  
 29 ~~nished with the necessary supplies and equipment~~ The commission may estab-  
 30 lish offices, incur expenses, enter into contracts and acquire services and  
 31 personal property as may be reasonable for the proper administration and en-  
 32 forcement of this chapter. Upon request of the commission, for the purpose  
 33 of carrying out any of its functions, the supervising officer of any state  
 34 agency, or of any state institution of learning, shall insofar as may be pos-  
 35 sible under available appropriation, and having due regard to the needs of  
 36 the agency to which the request is directed, assign or detail to the com-  
 37 mission members of the staff or personnel of such agency or institution of  
 38 learning, and make such special reports, surveys, or studies as the commis-  
 39 sion may request.

40 (3) The commission shall designate its chairman, and may from time to  
 41 time, change such designation. A majority of the commission shall consti-  
 42 tute a quorum, and the concurrency of a majority in any matter within their  
 43 duties shall be required for its determination. The chairman and members of  
 44 the commission shall be compensated as provided by section 59-509(h), Idaho  
 45 Code. The commission shall provide for the execution of surety bonds for all  
 46 employees and officers who shall be entrusted with funds or property; shall  
 47 provide for the keeping of a full and accurate record of all proceedings and  
 48 of all resolutions, and orders issued or adopted; and shall provide for an  
 49 annual audit of the accounts of receipts and disbursements.

1 (4) In addition to the duties and powers hereinafter conferred upon the  
 2 state soil and water conservation commission, it shall have the following  
 3 responsibilities:

4 (a) To offer such assistance as may be appropriate to the supervisors of  
 5 soil conservation districts, ~~organized as provided hereinafter,~~ in the  
 6 carrying out of any of their powers and programs.

7 (b) To keep the supervisors of each of the several soil conservation  
 8 districts ~~organized under the provisions of this chapter~~ informed of  
 9 the activities and experience of all other soil conservation districts  
 10 ~~organized hereunder,~~ and to facilitate an interchange of advice and  
 11 experience between such districts and cooperation between them.

12 (c) To coordinate the progress of the several soil conservation dis-  
 13 tricts ~~organized hereunder~~ so far as this may be done by advice and con-  
 14 sultation.

15 (d) To secure the cooperation and assistance of the United States and  
 16 any of its agencies, and of agencies of this state, in the work of such  
 17 districts.

18 (e) To disseminate information throughout the state concerning the ac-  
 19 tivities and programs of the soil conservation districts in areas where  
 20 their organization is desirable.

21 (f) To provide for the establishment and encouragement of the "Idaho  
 22 OnePlan" as a primary computer-based conservation planning process for  
 23 all natural resource concerns. Establishment and encouragement will  
 24 be accomplished through an executive group and steering committee both  
 25 containing private, state and federal representation. The information  
 26 provided by those using the "Idaho OnePlan" shall be deemed to be trade  
 27 secrets, production records or other proprietary information and shall  
 28 be kept confidential and shall be exempt from disclosure pursuant to  
 29 section 9-340D, Idaho Code.

30 (5) In addition to other powers, functions and duties of soil conserva-  
 31 tion districts and the state soil and water conservation commission provided  
 32 in this chapter, the commission shall have the following additional powers,  
 33 functions and duties:

34 (a) The commission shall conduct, in cooperation with appropriate fed-  
 35 eral and state agencies and the owners and operators of privately owned  
 36 forest lands, rangelands and agricultural lands in this state, conser-  
 37 vation improvements on or in respect to these lands for the purposes of  
 38 implementing conservation systems to conserve and improve natural re-  
 39 source conditions;

40 (b) The commission shall assist and advise soil conservation districts  
 41 and other entities in implementing the conservation improvements,  
 42 projects, and the water quality program for agriculture. To the extent  
 43 that there are available general funds, the commission shall provide  
 44 for grants and cost-share opportunities and, as legislatively desig-  
 45 nated, utilize the resource conservation and rangeland development  
 46 fund for loans for conservation improvements. Provided however, that  
 47 the commission shall determine whether general or resource conserva-  
 48 tion and rangeland development funds are available before approving  
 49 any conservation improvements, projects, and cost-share opportunities



1 and, after having made such determination, shall enter into the neces-  
2 sary contracts for implementation;

3 ~~(c) The state soil conservation~~ commission shall be the agency respon-  
4 sible for the administration of funds accruing to the resource conser-  
5 vation and rangeland development fund and for all general funds appro-  
6 priated as a separate and distinct action of the legislature to imple-  
7 ment the powers, functions and duties of soil conservation districts  
8 and the commission; ~~and~~

9 (d) On or before March 1 of each year, the commission shall report to  
10 the senate agricultural affairs committee and the house agricultural  
11 affairs committee; and

12 (e) The commission shall promulgate such rules as are necessary to  
13 carry out the purposes of this chapter.

14 SECTION 4. That Section 22-2719, Idaho Code, be, and the same is hereby  
15 amended to read as follows:

16 22-2719. CREATION OF SOIL CONSERVATION DISTRICTS. ~~A.~~ (1) Any twenty-  
17 five (25) owners of land lying within the limits of the territory proposed to  
18 be organized into a district may file a petition with the state soil and water  
19 conservation commission asking that a soil conservation district be orga-  
20 nized to function in the territory described in the petition. Such petition  
21 shall set forth:

22 ~~(1a)~~ The proposed name of said district;

23 ~~(2b)~~ That there is need, in the interest of the public health, safety~~7~~  
24 and welfare, for a soil conservation district to function in the terri-  
25 tory described in the petition;

26 ~~(3c)~~ A description of the territory proposed to be organized as a dis-  
27 trict, which description shall not be required to be given by metes and  
28 bounds or by legal subdivisions, but shall be deemed sufficient if gen-  
29 erally accurate;

30 ~~(4d)~~ A request that the state soil and water conservation commission  
31 duly define the boundaries for such district; that a referendum be held  
32 within the territory so defined on the question of the creation of a soil  
33 conservation district in such territory; and that the commission deter-  
34 mine that such a district be created.

35 Where more than one (1) petition is filed covering parts of the same terri-  
36 tory, the state soil and water conservation commission may consolidate all  
37 of any such petitions.

38 ~~B.~~ (2) Within thirty (30) days after such petition has been filed with  
39 the state soil and water conservation commission, it shall cause due notice  
40 to be given of a proposed hearing upon the question of the desirability and  
41 necessity, in the interest of the public health, safety~~7~~ and welfare, of the  
42 creation of such district, upon the question of the appropriate boundaries  
43 to be assigned to such district, upon the propriety of the petition and  
44 other proceedings taken under this chapter, and upon all questions relevant  
45 to such inquiries. All owners of land within the limits of the territory  
46 described in the petition, and of lands within any territory considered for  
47 addition to such described territory, and all other interested parties,  
48 shall have the right to attend such hearings and to be heard. If it shall ap-  
49 pear upon the hearing that it may be desirable to include within the proposed

district territory outside of the area within which due notice of the hearing has been given the hearing shall be adjourned and the due notice of further hearing shall be given throughout the entire area considered for inclusion in the district, and such further hearing held. After such hearing, if the commission shall determine upon the facts presented at such hearing and upon such other relevant facts and information as may be available, that there is need in the interest of the public health, safety and welfare, for a soil conservation district to function in the territory considered at the hearing, it shall make and record such determination, and shall define by metes and bounds or by legal subdivisions, the boundaries of such district. In making such determination and in defining such boundaries, the commission shall give due weight and consideration to the topography of the area considered and of the state, the composition of soils therein, the distribution of erosion, the prevailing land use practices, the desirability and necessity of including within the boundaries the particular lands under consideration and the benefits such lands may receive from being included within such boundaries, the relation of the proposed area to the existing watersheds and agricultural regions, and to other soil conservation districts already organized or proposed for organization under the provisions of this chapter, and such other physical, geographical, and economic factors as are relevant, having due regard to the legislature determinations set forth in section 22-2716, Idaho Code. The territory to be included within such boundaries need not be contiguous. If the commission ~~shall~~ determines after such hearing, after due consideration of the said relevant facts, that there is no need for a soil conservation district to function in the territory considered at the hearing, it shall make and record such determination and shall deny the petition. After six (6) months shall have expired from the date of the denial of such petition, subsequent petitions covering the same or substantially the same territory may be filed as aforesaid and new hearings held and determinations made thereon.

~~C.~~ (3) After the commission has made and recorded a determination that there is need, in the interest of the public health, safety, ~~and~~ and welfare, for the organization of a district in a particular territory and has defined the boundaries thereof, it shall consider the question whether the operation of a district within such boundaries with the powers conferred upon soil conservation districts in this chapter is administratively practicable and feasible. To assist the commission in the determination of such administrative practicability and feasibility, it shall be the duty of the commission, at the next election held after entry of the finding that there is need for the organization of the proposed district and the determination of the boundaries thereof, to hold a referendum, subject to the provisions of section 34-106, Idaho Code, within the proposed district upon the proposition of the creation of the district, and to cause notice of such election to be given as provided in section 34-1406, Idaho Code. The question shall be submitted by ballots upon which the words "For creation of a soil conservation district of the lands below described and lying in the county(ies) of .... and ...." and "Against creation of a soil conservation district of the lands below described and lying in the county(ies) of .... and ...." shall appear, with a square before each proposition and a direction to insert an X mark in the square before one or the other of said propositions as the voter may favor

1 or oppose creation of such district. The ballot shall set forth the bound-  
 2 aries of such proposed district as determined by the commission. All qual-  
 3 ified electors who own lands or reside within the proposed district shall be  
 4 eligible to vote in said referendum.

5 ~~D.~~ (4) The commission shall pay all expenses for the issuance of such no-  
 6 tice and the conduct of such hearings and election, and shall supervise the  
 7 conduct of such hearings and election. It shall issue appropriate regula-  
 8 tions governing the conduct of such hearings and election. No informali-  
 9 ties in the conduct of the election or in any matter relating thereto shall  
 10 invalidate the election or the result thereof if notice thereof shall have  
 11 been given substantially as herein provided and the election shall have been  
 12 fairly conducted.

13 ~~E.~~ (5) The commission shall publish the result of the election and shall  
 14 thereafter consider and determine whether the operation of the district  
 15 within the defined boundaries is administratively practicable and feasible.  
 16 If the commission ~~shall~~ determines that the operation of such district is  
 17 not administratively practicable and feasible, it shall record such deter-  
 18 mination and deny the petition. If the commission ~~shall~~ determines that the  
 19 operation of such district is administratively practicable and feasible,  
 20 it shall record such determination and shall proceed with the organization  
 21 of the district in the manner hereinafter provided. In making such deter-  
 22 mination the commission shall give due regard and weight to the attitudes  
 23 of the owners of lands lying within the defined boundaries, the number of  
 24 landowners and qualified electors eligible to vote in the election who shall  
 25 have voted, the proportion of the votes cast in the election in favor of the  
 26 creation of the district to the total number of votes cast, the approximate  
 27 wealth and income of the landowners of the proposed district, the probable  
 28 expense of carrying on erosion control and other conservation operations  
 29 within such district, and such other economic and social factors as may  
 30 be relevant to such determination, having due regard to the legislative  
 31 determination set forth in section 22-2716, Idaho Code; provided, however,  
 32 ~~that~~ the commission shall not have authority to determine that the operation  
 33 of the proposed district within the defined boundaries is administratively  
 34 practicable and feasible unless at least a majority of the votes cast in the  
 35 election upon the proposition of creation of the district shall have been  
 36 cast in favor of the creation of such district.

37 ~~F.~~ (6) If the commission ~~shall~~ determines that the operation of the  
 38 proposed district within the defined boundaries is administratively prac-  
 39 ticable and feasible, it shall appoint two (2) supervisors to act, with the  
 40 three (3) supervisors elected as provided hereinafter, as the governing  
 41 body of the district. Such district shall be a governmental subdivision of  
 42 this state and a public body corporate and politic, upon the taking of the  
 43 following proceedings:

44 (a) The two (2) appointed supervisors shall present to the secretary  
 45 of state an application signed by them which shall set forth (and such  
 46 application need contain no detail other than the mere recitals): ~~(1)~~  
 47 that a petition for the creation of the district was filed with the state  
 48 soil and water conservation commission pursuant to the provisions of  
 49 this chapter, and that the proceedings specified in this chapter were  
 50 taken pursuant to such petition; that the application is being filed in

order to complete the organization of the district as a governmental subdivision and a public body, corporate and politic, under this chapter; and that the commission has appointed them as supervisors; (2ii) the name and official residence of each of the supervisors, together with a certified copy of the appointments evidencing their right to office; (3iii) the term of office of each of the supervisors; (4iv) the name which is proposed for the district; and (5v) the location of the principal office of the supervisors of the district. The application shall be subscribed and sworn to by each of the said supervisors before an officer authorized by the laws of this state to take and certify oaths, who shall certify upon the application that he personally knows the supervisors and knows them to be the officers as affirmed in the application, and that each has subscribed thereto in the officer's presence.

(b) The application shall be accompanied by a statement by the state soil and water conservation commission, which shall certify (and such statement need contain no detail other than the mere recitals) that a petition was filed, notice issued, and hearing held as aforesaid; that the commission did duly determine that there is need, in the interest of the public health, safety and welfare, for a soil conservation district to function in the proposed territory and did define the boundaries thereof; that notice was given and an election held on the question of the creation of such district, and that the result of the election showed a sixty ~~per cent~~ percent (60%) majority of the votes cast in the election to be in favor of the creation of the district; that thereafter the commission did duly determine that the operation of the proposed district is administratively practicable and feasible. The said statement shall set forth the boundaries of the district as they have been defined by the commission.

(c) The secretary of state shall examine the application and statement and, if he finds that the name proposed for the district is not identical with that of any other soil conservation district of this state or so nearly similar as to lead to confusion or uncertainty, he shall receive and file them and shall record them in an appropriate book of record in his office.

(d) If the secretary of state ~~shall~~ finds that the name proposed for the district is identical with that of any other soil conservation district of this state, or so nearly similar as to lead to confusion and uncertainty, he shall certify such fact to the state soil and water conservation commission which shall thereupon submit to the secretary of state a new name for the said district, which shall not be subject to such defects. Upon receipt of such new name free of such defects, the secretary of state shall record the application and statement with the name so modified, in an appropriate book of record in his office. When the application and statement have been made, filed, and recorded, as herein provided, the district shall constitute a governmental subdivision of this state and a public body corporate and politic. The secretary of state shall make and issue to the said supervisors a certificate under the seal of the state, of the due organization of the said district, and shall record such certificate with the application

and statement. The boundaries of such district shall include the territory as determined by the state soil and water conservation commission as aforesaid, but in no event shall they include any area included within the boundaries of another soil conservation district organized under the provisions of this ~~act~~ chapter except as provided in section 22-2720, Idaho Code.

~~G.~~ (7) After six (6) months shall have expired from the date of entry of a determination by the state soil and water conservation commission that operation of a proposed district is not administratively practicable and feasible, and denial of a petition pursuant to such determination, subsequent petitions may be filed as aforesaid, and action taken thereon in accordance with the provisions of this chapter.

~~H.~~ (8) Petitions for including additional territory within an existing district may be filed with the state soil and water conservation commission and the proceedings herein provided for in the case of petitions to organize a district shall be observed in the case of petitions for such inclusion. The commission shall prescribe the form for such petitions, which shall be as nearly as may be in the form prescribed in this chapter for petitions to organize a district. Where the total number of landowners in the area proposed for inclusion ~~shall be~~ is less than twenty-five (25), the petition may be filed when signed by a two-thirds (2/3) majority of the owners of such area, and in such case no election need be held. In elections upon petitions for such inclusion, all owners of land and qualified electors lying within the proposed additional area shall be eligible to vote.

~~I.~~ (9) Incorporated cities, not already included within a district, may be included by presentation of a request of the district approved by the governing body along with a request of the city approved by the mayor and council, to the state soil and water conservation commission. The commission shall consider and act on such joint request at the earliest convenience. If the joint request is denied, the commission shall so notify the district and city in writing and state the reasons for such denial. After six (6) months shall have expired from the date of denial of such joint request, a subsequent joint request may again be made. If the joint request is approved, the commission shall then cause the necessary papers to be filed with the secretary of state. This shall include an amended legal description of the boundaries of the total district.

SECTION 5. That Section 22-2720, Idaho Code, be, and the same is hereby amended to read as follows:

22-2720. CONSOLIDATION OF OR DELETION FROM AND ADDITION TO NEW OR EXISTING DISTRICTS. ~~(1-)~~ Petitions for consolidating two (2) or more existing districts or for deleting territory from one (1) or more existing districts and adding the deleted territory to one (1) or more existing districts or incorporating the deleted territory into a new district or districts may be filed with the state soil and water conservation commission on such forms as may be prescribed by the state soil and water conservation commission.

~~(2-)~~ The petitions provided for in subsection (1) of this section shall be signed by twenty-five (25) landowners in the area proposed to be consolidated or the area proposed to be deleted plus the district or districts to which it is to be added or the territory which is to be included

1 in a new district or districts, as the case may be. Provided~~7~~ however, ~~that~~  
 2 if two-thirds (2/3) of the landowners of all such territory total less than  
 3 twenty-five (25), then~~, in that event,~~ such lesser number of signatures will  
 4 suffice for the petition.

5 ~~(3-)~~ Within thirty (30) days after receipt of such a petition, the state  
 6 soil and water conservation commission shall cause due notice of hearing on  
 7 the matter to be given in all of the areas concerned.

8 ~~(4-)~~ At the close of the hearing ~~hereinbefore provided for,~~ the state  
 9 soil and water conservation commission ~~must~~ shall make and record the fol-  
 10 lowing determinations:

11 ~~(a-)~~ Whether or not, in the opinion of the commission, the proposal set  
 12 forth by the petition would serve the public health, safety and welfare.

13 ~~(b-)~~ Whether or not, in the opinion of the commission, the proposal set  
 14 forth by the petition is administratively practicable and feasible.

15 ~~(5-)~~ If either or both of the determinations made under subsection (4)  
 16 of this section are in the negative, the matter is closed. Provided~~7~~ how-  
 17 ever, ~~that~~ after six (6) months have expired from the date of such determi-  
 18 nation, a new petition may be filed involving substantially the same propos-  
 19 als.

20 ~~(6-)~~ If both of the determinations made under subsection (4) of this  
 21 section are in the affirmative and if the proposal involves the consolida-  
 22 tion of two (2) or more existing districts or if the proposal involves the  
 23 deletion of territory from one (1) or more districts and the addition of that  
 24 territory to another existing district or districts, then the commission  
 25 shall proceed to effect the change as per the commission's determinations  
 26 hereinbefore referred to. The state soil and water conservation commission  
 27 shall effect the change ~~here referred to~~ by filing with the secretary of  
 28 state a sworn statement of a member of the commission stating:

29 ~~(a-)~~ The name of the district or districts which are consolidated, if  
 30 any~~7~~;

31 ~~(b-)~~ The name of the district or districts from which the territory is  
 32 deleted or added, if any~~7~~; and

33 ~~(c-)~~ A description of the boundaries of the consolidated district or of  
 34 the territory remaining in the district or districts deleted from and  
 35 the district or districts added to, according to the commission's de-  
 36 termination ~~hereinbefore referred to.~~

37 From and after the time of filing of such statement with the secretary of  
 38 state, the changes will be effective. If the name of a district formed by  
 39 the consolidation of two (2) or more existing districts differs from that of  
 40 either of the consolidated districts, the secretary of state shall issue and  
 41 record a new certificate of organization of said district.

42 (7-) Within ten (10) days after the filing of a statement providing for  
 43 the formation of a consolidated district as prescribed in subsection (6) of  
 44 this section, the supervisors of each district involved in the consolidation  
 45 shall meet and, from their number, shall designate a chairman of the consoli-  
 46 dated district. Incumbent supervisors of districts involved in a consolida-  
 47 tion may serve until any such supervisor's term expires. Any vacancy on the  
 48 governing body of a district formed by consolidation shall not be filled un-  
 49 til only five (5) supervisors, or seven (7) upon written request pursuant to  
 50 section 22-2721, Idaho Code, remain on the governing body of such district.

1 Thereafter, vacancies shall be filled consistent with procedures prescribed  
 2 in section 22-2721, Idaho Code.

3 (8) A district formed by the consolidation of two (2) or more districts  
 4 shall receive a sum not to exceed eight thousand five hundred dollars  
 5 (\$8,500) for each district involved in the formation of the consolidated  
 6 district for a period of three (3) years after the formation of such dis-  
 7 trict. The maximum allocation of fifty thousand dollars (\$50,000) per  
 8 district set forth in section 22-2727, Idaho Code, shall not apply to a  
 9 district formed by consolidation for a period of three (3) years following  
 10 the formation of such district. Upon expiration of the three (3) year time  
 11 period, a district formed by consolidation shall be treated as one (1)  
 12 district and shall be subject to all provisions of section 22-2727, Idaho  
 13 Code.

14 (9) The office of any district supervisor is hereby declared to be vac-  
 15 ant, when, after the deletion of territory, such district supervisor is no  
 16 longer a landowner within the district deleted from.

17 (8-10) If both of the determinations made under subsection (4) of this  
 18 section are in the affirmative and if the proposal involves the addition of  
 19 territory ~~deleted~~ deleted from one (1) or more existing districts to other  
 20 territory thus forming a new district, a referendum shall be held and other  
 21 procedures followed as in cases involving the original formation of a dis-  
 22 trict where no existing district is involved. In such a case, due notice  
 23 shall be given in the area which may comprise the new district.

24 (9-11) If a new district is formed under the procedure prescribed in  
 25 subsection (8-10) of this section, part of the area which is composed of an  
 26 old district, the state soil and water conservation commission shall cause  
 27 to be filed with the secretary of state a sworn statement of a member of the  
 28 commission stating:

29 (a-) The name of the district or districts deleted from; and  
 30 (b-) A description of the boundaries of the territory remaining in the  
 31 district or districts deleted from.  
 32 From and after the time of filing of such statement with the secretary of  
 33 state, the change in the boundaries of the existing districts shall be ef-  
 34 fective.

35 SECTION 6. That Section 22-2721, Idaho Code, be, and the same is hereby  
 36 amended to read as follows:

37 22-2721. ELECTION, APPOINTMENT, QUALIFICATIONS AND TENURE OF SUPER-  
 38 VISORS. (1) The governing body of the district shall consist of five (5)  
 39 supervisors, elected or appointed as provided in this chapter. Elections  
 40 shall be conducted pursuant to the provisions of this section and the uniform  
 41 district election law, chapter 14, title 34, Idaho Code. If at any time the  
 42 supervisors of a district deem it necessary, they may request permission  
 43 from the state soil and water conservation commission to increase the number  
 44 of supervisors to seven (7). Upon receipt of such a request in writing,  
 45 signed by all five (5) supervisors, stating a valid reason for such need, the  
 46 commission shall grant permission. The additional supervisors shall then  
 47 be appointed as outlined in ~~subparagraph C.~~ subsection (5) of this section  
 48 until such time as regular district elections for two (2) supervisors in  
 49 each district. At that time those districts having seven (7) supervisors

1 shall then elect four (4) supervisors for four (4) year terms. The two (2)  
 2 supervisors appointed by the commission shall be persons who are by training  
 3 and experience qualified to perform the specialized services which will be  
 4 required of them in the performance of their duties. All supervisors shall  
 5 be landowners or farmers of the district where they are elected or appointed  
 6 and shall be registered to vote in the state of Idaho.

7 ~~A.~~ (2) Within thirty (30) days after the date of issuance by the sec-  
 8 retary of state of a certificate of organization of a soil conservation  
 9 district, nominating petitions may be filed with the state soil and water  
 10 conservation commission to nominate candidates for supervisors of each  
 11 district. The state soil and water conservation commission, unless it has  
 12 contracted with the county clerk to conduct the election, shall designate  
 13 an individual to act as the election official. If contracted to do so, the  
 14 county clerk shall act as the election official. The election official  
 15 shall have authority to extend the time within which nominating petitions  
 16 may be filed. No such nominating petition shall be accepted by the election  
 17 official unless it shall be subscribed by not less than five (5) persons  
 18 who are qualified electors owning land or residing within the boundaries of  
 19 the district. The election official shall give due notice of an election  
 20 to be held, subject to the provisions of section 34-106, Idaho Code, for  
 21 the election of three (3) supervisors for the district. The names of all  
 22 nominees on behalf of whom such nominating petitions have been filed within  
 23 the time herein designated, shall appear arranged in the alphabetical order  
 24 of the surnames, upon ballots, with a square before each name and directions  
 25 to insert a mark in the square before any three (3) names to indicate the  
 26 voter's preference. The three (3) candidates who shall receive the largest  
 27 number, respectively, of the votes cast in such election shall be the elected  
 28 supervisors for such district. The commission shall pay all the expenses  
 29 of such election, which shall be supervised and conducted by the election  
 30 official.

31 ~~B.~~ (3) All elections in districts, excluding the first election as pro-  
 32 vided in ~~subparagraph A.~~ subsection (2) of this section, shall be conducted  
 33 by the district supervisors of the districts involved who shall designate an  
 34 individual to be the election official, or the county clerk if contracted for  
 35 that purpose. Such election shall be held on the first Tuesday succeeding  
 36 the first Monday of November in each even-numbered year. Such elections  
 37 shall be in compliance with the provisions of chapter 14, title 34, Idaho  
 38 Code, and shall be supervised and conducted by the election official. The  
 39 cost of conducting such elections shall be borne by the district involved.  
 40 The election official shall certify to the state soil and water conserva-  
 41 tion commission the names of the elected supervisors. The state soil and  
 42 water conservation commission shall issue certificates of election to each  
 43 elected supervisor so certified. The state soil and water conservation  
 44 commission may authorize each district to contract with the county clerk  
 45 or county clerks of the county or counties in which the district is located  
 46 to conduct the election for the soil conservation district. If a district  
 47 election is conducted by a county clerk, the county clerk must provide a  
 48 ballot for the district election, and must provide a process that allows only  
 49 qualified electors of the district to vote in that district's election.



1       (4) In any election for supervisor, if after the deadline for filing  
 2 a declaration of intent as a write-in candidate, it appears that the num-  
 3 ber of qualified candidates who have been nominated is equal to the number  
 4 of supervisors to be elected, it shall not be necessary for the candidates  
 5 to stand for election, and the board of supervisors shall declare such can-  
 6 didates elected as supervisors, and the state soil and water conservation  
 7 commission shall immediately make and deliver to such persons certificates  
 8 of election.

9       ~~C.~~(5) In any election for supervisors of a soil conservation district,  
 10 if after the expiration of the date for filing written nominations it appears  
 11 that only one (1) qualified candidate has been nominated for each position to  
 12 be filled and no declaration of intent has been filed by a write-in candidate  
 13 as provided in ~~subparagraph D.~~ subsection (6) of this section, it shall not  
 14 be necessary to hold an election, and the election official shall, no later  
 15 than seven (7) days before the scheduled date of the election, declare such  
 16 candidate elected as supervisor, and the state soil and water conservation  
 17 commission shall immediately make and deliver to such person a certificate  
 18 of election.

19       ~~D.~~(6) No write-in vote for supervisor shall be counted unless a decla-  
 20 ration of intent has been filed with the election official indicating that  
 21 the person making the declaration desires the office and is legally quali-  
 22 fied to assume the duties of supervisor if elected as a write-in candidate.  
 23 The declaration of intent shall be filed not later than twenty-five (25) days  
 24 before the day of election.

25       ~~E.~~(7) The supervisors shall designate a chairman and may, from time to  
 26 time, change such designation. The term of office of each supervisor shall  
 27 be four (4) years commencing on the first day of January next following elec-  
 28 tion, except that the two (2) supervisors who are first appointed shall be  
 29 designated to serve for terms of two (2) years. A supervisor shall hold of-  
 30 fice until a qualified successor has been elected or appointed. Vacancies  
 31 shall be filled for the unexpired term. The selection of successors to fill  
 32 an unexpired term, or for a full term shall be made by a vote of the majority  
 33 of the supervisors duly qualified and acting at the time the vacancy shall  
 34 arise and the supervisors shall certify the name of the appointed supervisor  
 35 to the state soil and water conservation commission ~~who~~ which shall issue a  
 36 certificate of such appointment.

37       ~~F.~~(8) A majority of the supervisors shall constitute a quorum and the  
 38 concurrence of a majority in any matter within their duties shall be required  
 39 for its determination. A supervisor shall be entitled to expenses, in-  
 40 cluding travel expense, necessarily incurred in the discharge of duties. A  
 41 supervisor shall receive no compensation for services from regular district  
 42 funds, county funds authorized in section 22-2726, Idaho Code, or state  
 43 funds authorized in section 22-2727, Idaho Code.

44       (9) In the event the district has a special project, approved by the  
 45 state soil and water conservation commission, making project funds avail-  
 46 able from federal or other sources, a supervisor may receive compensation  
 47 not to exceed thirty-five dollars (\$35.00) per day plus actual and necessary  
 48 expenses from project funds for services directly related to the project.

49       (10) The supervisors may employ a secretary, technical experts, and  
 50 such other officers, agents, and employees, permanent and temporary as

1 they may require, and shall determine their qualifications, duties and  
 2 compensation. The supervisors may call upon the attorney general of the  
 3 state for such legal services as they may require or may employ their own  
 4 counsel and legal staff. The supervisors may delegate to their chairman, to  
 5 one (1) or more supervisors, or to one (1) or more agents, or employees, such  
 6 powers and duties as they may deem proper. The supervisors shall furnish  
 7 to the state soil and water conservation commission, upon request, copies  
 8 of such ordinances, rules, orders, contracts, forms and other documents as  
 9 they shall adopt or employ, and such other information concerning ~~their~~ the  
 10 supervisors' activities as ~~it~~ the commission may require in the performance  
 11 of ~~its~~ the commission's duties under this chapter.

12 (11) The supervisors shall provide for the execution of surety bonds for  
 13 all employees and officers who shall be entrusted with funds or property;  
 14 they shall provide for the keeping of a full and accurate record of all pro-  
 15 ceedings and of all resolutions, and orders issued or adopted; and shall pro-  
 16 vide for independent financial audits in accordance with the provisions of  
 17 section 67-450B, Idaho Code, ~~with the exception of the provisions of subsec-~~  
 18 ~~tion (2) (d) of section 67-450B, Idaho Code. The governing body of a district~~  
 19 ~~whose annual budget from all sources does not exceed fifty thousand dollars~~  
 20 ~~(\$50,000) may elect to have its financial statements reviewed on a biennial~~  
 21 ~~basis. Biennial reports of review shall include a review of each fiscal year~~  
 22 ~~since the previous review report. Any sSupervisors may shall be removed by~~  
 23 ~~the state soil conservation commission upon notice and hearing, for neglect~~  
 24 ~~of duty or malfeasance in office, but for no other reason subject to recall in~~  
 25 accordance with the provisions of chapter 17, title 34, Idaho Code.

26 (12) The supervisors may invite the legislative body of a municipality  
 27 or county located near the territory comprised within the district to desig-  
 28 nate a representative to advise and consult with the supervisors of the dis-  
 29 trict on all questions of program and policy which may affect the property,  
 30 water supply, or other interests of such municipality or county.

31 SECTION 7. That Section 22-2721, Idaho Code, as amended by Section 4,  
 32 Chapter 341, Laws of 2009, be, and the same is hereby amended to read as fol-  
 33 lows:

34 22-2721. ELECTION, APPOINTMENT, QUALIFICATIONS AND TENURE OF SUPER-  
 35 VISORS. (1) The governing body of the district shall consist of five (5)  
 36 supervisors, elected or appointed as provided in this chapter. Elections  
 37 shall be conducted pursuant to the provisions of this section and the uniform  
 38 district election law, chapter 14, title 34, Idaho Code. If at any time the  
 39 supervisors of a district deem it necessary, they may request permission  
 40 from the state soil and water conservation commission to increase the number  
 41 of supervisors to seven (7). Upon receipt of such a request in writing,  
 42 signed by all five (5) supervisors, stating a valid reason for such need, the  
 43 commission shall grant permission. The additional supervisors shall then be  
 44 appointed as outlined in subsection ~~6-~~ (5) of this section until such time as  
 45 regular district elections for two (2) supervisors in each district. At that  
 46 time those districts having seven (7) supervisors shall then elect four (4)  
 47 supervisors for four (4) year terms. The two (2) supervisors appointed by  
 48 the commission shall be persons who are by training and experience qualified  
 49 to perform the specialized services which will be required of them in the

1 performance of their duties. All supervisors shall be landowners or farmers  
 2 of the district where they are elected or appointed and shall be registered  
 3 to vote in the state of Idaho.

4 ~~A.~~(2) Within thirty (30) days after the date of issuance by the sec-  
 5 retary of state of a certificate of organization of a soil conservation  
 6 district, nominating petitions may be filed with the state soil and water  
 7 conservation commission to nominate candidates for supervisors of each  
 8 district. The county clerk shall conduct the election for the district  
 9 and shall be the election official for the district. The election official  
 10 shall have authority to extend the time within which nominating petitions  
 11 may be filed. No such nominating petition shall be accepted by the election  
 12 official unless it shall be subscribed by not less than five (5) persons  
 13 who are qualified electors owning land or residing within the boundaries of  
 14 the district. The election official shall give due notice of an election  
 15 to be held, subject to the provisions of section 34-106, Idaho Code, for  
 16 the election of three (3) supervisors for the district. The names of all  
 17 nominees on behalf of whom such nominating petitions have been filed within  
 18 the time herein designated, shall appear upon ballots, with directions to  
 19 choose three (3) names to indicate the voter's preference. The three (3)  
 20 candidates who shall receive the largest number, respectively, of the votes  
 21 cast in such election shall be the elected supervisors for such district.  
 22 The commission shall pay all the expenses of such election, which shall be  
 23 supervised and conducted by the election official.

24 ~~B.~~(3) All elections in districts shall be conducted by the county  
 25 clerk. Such election shall be held on the first Tuesday succeeding the  
 26 first Monday of November in each even-numbered year. Such elections shall  
 27 be in compliance with the provisions of chapter 14, title 34, Idaho Code,  
 28 and shall be supervised and conducted by the county clerk. The cost of  
 29 conducting such elections shall be borne by the county that conducted  
 30 the election. The county clerk shall certify to the state soil and water  
 31 conservation commission the names of the elected supervisors. The state  
 32 soil and water conservation commission shall issue certificates of election  
 33 to each elected supervisor so certified. The county clerk or county clerks  
 34 of the county or counties in which the district is located shall conduct  
 35 the election for the soil conservation district, and the county clerk must  
 36 provide a ballot for the district election, and must provide a process that  
 37 allows only qualified electors of the district to vote in that district's  
 38 election.

39 (4) In any election for supervisor, if after the deadline for filing  
 40 a declaration of intent as a write-in candidate, it appears that the num-  
 41 ber of qualified candidates who have been nominated is equal to the number  
 42 of supervisors to be elected, it shall not be necessary for the candidates  
 43 to stand for election, and the board of supervisors shall declare such can-  
 44 didates elected as supervisors, and the state soil and water conservation  
 45 commission shall immediately make and deliver to such persons certificates  
 46 of election.

47 ~~C.~~(5) In any election for supervisors of a soil conservation district,  
 48 if after the expiration of the date for filing written nominations it appears  
 49 that only one (1) qualified candidate has been nominated for each position to  
 50 be filled and no declaration of intent has been filed by a write-in candidate

1 as provided in subsection ~~D.~~ (6) of this section, it shall not be necessary  
 2 to hold an election, and the county clerk shall, no later than seven (7) days  
 3 before the scheduled date of the election, declare such candidate elected as  
 4 supervisor, and the state soil and water conservation commission shall imme-  
 5 diately make and deliver to such person a certificate of election.

6 ~~D.~~ (6) No write-in vote for supervisor shall be counted unless a dec-  
 7 laration of intent has been filed with the county clerk indicating that the  
 8 person making the declaration desires the office and is legally qualified to  
 9 assume the duties of supervisor if elected as a write-in candidate. The dec-  
 10 laration of intent shall be filed not later than twenty-five (25) days before  
 11 the day of election.

12 ~~E.~~ (7) The supervisors shall designate a chairman and may, from time to  
 13 time, change such designation. The term of office of each supervisor shall  
 14 be four (4) years commencing on the first day of January next following elec-  
 15 tion, except that the two (2) supervisors who are first appointed shall be  
 16 designated to serve for terms of two (2) years. A supervisor shall hold of-  
 17 fice until a qualified successor has been elected or appointed. Vacancies  
 18 shall be filled for the unexpired term. The selection of successors to fill  
 19 an unexpired term, or for a full term shall be made by a vote of the majority  
 20 of the supervisors duly qualified and acting at the time the vacancy shall  
 21 arise and the supervisors shall certify the name of the appointed supervisor  
 22 to the state soil and water conservation commission ~~who~~ which shall issue a  
 23 certificate of such appointment.

24 ~~F.~~ (8) A majority of the supervisors shall constitute a quorum and the  
 25 concurrence of a majority in any matter within their duties shall be required  
 26 for its determination. A supervisor shall be entitled to expenses, in-  
 27 cluding travel expense, necessarily incurred in the discharge of duties. A  
 28 supervisor shall receive no compensation for services from regular district  
 29 funds, county funds authorized in section 22-2726, Idaho Code, or state  
 30 funds authorized in section 22-2727, Idaho Code.

31 (9) In the event the district has a special project, approved by the  
 32 state soil and water conservation commission, making project funds avail-  
 33 able from federal or other sources, a supervisor may receive compensation  
 34 not to exceed thirty-five dollars (\$35.00) per day plus actual and necessary  
 35 expenses from project funds for services directly related to the project.

36 (10) The supervisors may employ a secretary, technical experts, and  
 37 such other officers, agents, and employees, permanent and temporary as  
 38 they may require, and shall determine their qualifications, duties and  
 39 compensation. The supervisors may call upon the attorney general of the  
 40 state for such legal services as they may require or may employ their own  
 41 counsel and legal staff. The supervisors may delegate to their chairman, to  
 42 one (1) or more supervisors, or to one (1) or more agents, or employees, such  
 43 powers and duties as they may deem proper. The supervisors shall furnish  
 44 to the state soil and water conservation commission, upon request, copies  
 45 of such ordinances, rules, orders, contracts, forms and other documents as  
 46 they shall adopt or employ, and such other information concerning ~~their~~ the  
 47 supervisors' activities as ~~it~~ the commission may require in the performance  
 48 of ~~its~~ the commission's duties under this chapter.

49 (11) The supervisors shall provide for the execution of surety bonds for  
 50 all employees and officers who shall be entrusted with funds or property;

1 they shall provide for the keeping of a full and accurate record of all pro-  
 2 ceedings and of all resolutions, and orders issued or adopted; and shall pro-  
 3 vide for independent financial audits in accordance with the provisions of  
 4 section 67-450B, Idaho Code, ~~with the exception of the provisions of subsec-~~  
 5 ~~tion (2) (d) of section 67-450B, Idaho Code.~~ The governing body of a district  
 6 ~~whose annual budget from all sources does not exceed fifty thousand dollars~~  
 7 ~~(\$50,000) may elect to have its financial statements reviewed on a biennial~~  
 8 ~~basis. Biennial reports of review shall include a review of each fiscal year~~  
 9 ~~since the previous review report. Any Supervisors may shall be removed by~~  
 10 ~~the state soil conservation commission upon notice and hearing, for neglect~~  
 11 ~~of duty or malfeasance in office, but for no other reason subject to recall in~~  
 12 ~~accordance with the provisions of chapter 17, title 34, Idaho Code.~~

13 (12) The supervisors may invite the legislative body of a municipality  
 14 or county located near the territory comprised within the district to desig-  
 15 nate a representative to advise and consult with the supervisors of the dis-  
 16 trict on all questions of program and policy which may affect the property,  
 17 water supply, or other interests of such municipality or county.

18 SECTION 8. That Section 22-2723, Idaho Code, be, and the same is hereby  
 19 amended to read as follows:

20 22-2723. COOPERATION BETWEEN DISTRICTS. The supervisors of any two  
 21 (2) or more districts ~~organized under the provisions of this act~~ may cooper-  
 22 ate with one another in the exercise of any or all powers conferred in this  
 23 ~~act~~ chapter.

24 SECTION 9. That Section 22-2724, Idaho Code, be, and the same is hereby  
 25 amended to read as follows:

26 22-2724. STATE AGENCIES TO COOPERATE. Agencies of this state which  
 27 shall have jurisdiction over, or be charged with the administration of, any  
 28 state-owned lands, and of any county, or other governmental subdivision of  
 29 the state, which shall have jurisdiction over, or charged with the admin-  
 30 istration of, any county-owned or other publicly owned lands, lying within  
 31 the boundaries of any district ~~organized hereunder,~~ shall cooperate to the  
 32 fullest extent with the supervisors of such districts in the effectuation of  
 33 programs and operations undertaken by the supervisors under the provisions  
 34 of this ~~act~~ chapter. The supervisors of such district shall be given free  
 35 access to enter and perform work upon such publicly owned lands.

36 SECTION 10. That Section 22-2725, Idaho Code, be, and the same is hereby  
 37 amended to read as follows:

38 22-2725. DISCONTINUANCE OF DISTRICTS. (1) At any time after five (5)  
 39 years after the organization of a district under the provisions of this chap-  
 40 ter, any twenty-five (25) owners of land lying within the boundaries of such  
 41 district may file a petition with the state soil and water conservation com-  
 42 mission ~~praying~~ requesting that the operations of the district be terminated  
 43 and the existence of the district discontinued. The commission may conduct  
 44 such public meetings, and public hearings upon such petition as may be neces-  
 45 sary to assist it in the consideration thereof. Within sixty (60) days after

1 such petition has been received by the commission it shall give due notice  
 2 of the holding of an election, subject to the provisions of section 34-106,  
 3 Idaho Code, and shall supervise the election, and issue appropriate regula-  
 4 tions governing such election as are consistent with chapter 14, title 34,  
 5 Idaho Code, the question to be submitted by ballots upon which the words "For  
 6 terminating the existence of the .... (name of the soil conservation dis-  
 7 trict to be here inserted)" shall appear, with a square before each propo-  
 8 sition and a direction to insert an X mark in the square before one or the  
 9 other of said propositions as the voter may favor or oppose discontinuance  
 10 of such district. All qualified electors who own land or reside within the  
 11 proposed district shall be eligible to vote in said election. No informalities  
 12 in the conduct of the election or in any matters relating thereto shall  
 13 invalidate the election or the result thereof if notice thereof shall have  
 14 been given substantially as herein provided and the election shall have been  
 15 fairly conducted.

16 (2) The commission shall publish the result of the election and shall  
 17 thereafter consider and determine whether the continued operation of the  
 18 district within the defined boundaries is administratively practicable and  
 19 feasible. If the commission ~~shall~~ determines that the continued operation  
 20 of such district is administratively practicable and feasible, it shall  
 21 record such determination and deny ~~this~~ the petition. If the commission  
 22 ~~shall~~ determines that the continued operation of such district is not admin-  
 23 istratively practicable and feasible, it shall record such determination  
 24 and shall certify such determination to the supervisors of the district. In  
 25 making such determination the commission shall give due regard and weight to  
 26 the attitudes of the owners of lands lying within the district, the number  
 27 of landowners eligible to vote in the election who shall have voted, the  
 28 proportion of the votes cast in the election in favor of the discontinuance  
 29 of the district to the total number of votes cast, the approximate wealth and  
 30 income of the landowners of the district, the probable expense of carrying  
 31 on such erosion-control operations within such district, and such other  
 32 economic and social factors as may be relevant to such determination, having  
 33 due regard to the legislative findings set forth in section 22-2716, Idaho  
 34 Code, provided, however, ~~that~~ the commission shall not have authority to  
 35 determine that the continued operation of the district is administratively  
 36 practicable and feasible unless at least a majority of the votes cast in the  
 37 election shall have been cast in favor of the continuance of such district.

38 (3) Upon receipt from the state soil and water conservation commission  
 39 of a certificate that the commission has determined that the continued op-  
 40 eration of the district is not administratively practicable and feasible, ~~and~~  
 41 pursuant to the provisions of this section, the supervisors shall forthwith  
 42 proceed to terminate the affairs of the district. The supervisors shall dis-  
 43 pose of all property belonging to the district at public auction and shall  
 44 pay over the proceeds of such sale to be covered into the state treasury. The  
 45 supervisors shall thereupon file an application duly verified, with the sec-  
 46 retary of state for the discontinuance of such district, and shall trans-  
 47 mit with such application the certificate of the state soil and water con-  
 48 servation commission setting forth the determination of the commission that  
 49 the continued operation of such district is not administratively practica-  
 50 ble and feasible. The application shall recite that the property of the dis-

1 trict has been disposed of and the proceeds paid over as in this section pro-  
 2 vided, and shall set forth a full accounting of such properties and proceeds  
 3 of the sale. The secretary of state shall issue to the supervisors a certifi-  
 4 cate of dissolution and shall record such certificate in an appropriate book  
 5 of record in his office.

6 (4) Upon issuance of a certificate of dissolution under the provisions  
 7 of this section, all contracts theretofore entered into, to which the dis-  
 8 trict or supervisors are parties, shall remain in force and effect for the  
 9 period provided in such contracts. The state soil and water conservation  
 10 commission shall be substituted for the district or supervisors as party to  
 11 such contracts.

12 (5) The state soil and water conservation commission shall not enter-  
 13 tain petitions for the discontinuance of any district nor conduct elections  
 14 upon such petitions nor make determinations pursuant to such petitions in  
 15 accordance with the provisions of this chapter, more often than once in five  
 16 (5) years.

17 SECTION 11. That Section 22-2725, Idaho Code, as amended by Section 5,  
 18 Chapter 341, Laws of 2009, be, and the same is hereby amended to read as fol-  
 19 lows:

20 22-2725. DISCONTINUANCE OF DISTRICTS. (1) At any time after five (5)  
 21 years after the organization of a district under the provisions of this chap-  
 22 ter, any twenty-five (25) owners of land lying within the boundaries of such  
 23 district may file a petition with the state soil and water conservation com-  
 24 mission ~~praying~~ requesting that the operations of the district be terminated  
 25 and the existence of the district discontinued. The commission may conduct  
 26 such public meetings, and public hearings upon such petition as may be neces-  
 27 sary to assist it in the consideration thereof. Within sixty (60) days after  
 28 such petition has been received by the commission, it shall give due notice  
 29 to the county clerk of the holding of an election, subject to the provisions  
 30 of section 34-106, Idaho Code, and the county clerk shall supervise the elec-  
 31 tion, and issue appropriate regulations governing such election as are con-  
 32 sistent with chapter 14, title 34, Idaho Code, the question to be submitted  
 33 by ballots upon which the words "For terminating the existence of the ....  
 34 (name of the soil conservation district to be here inserted)" shall appear,  
 35 with a square before each proposition and a direction to mark the ballot as  
 36 the voter may favor or oppose discontinuance of such district. All qualified  
 37 electors who reside within the proposed district shall be eligible to vote  
 38 in said election. No informalities in the conduct of the election or in any  
 39 matters relating thereto shall invalidate the election or the result thereof  
 40 if notice thereof shall have been given substantially as herein provided and  
 41 the election shall have been fairly conducted.

42 (2) The commission shall publish the result of the election and shall  
 43 thereafter consider and determine whether the continued operation of the  
 44 district within the defined boundaries is administratively practicable and  
 45 feasible. If the commission ~~shall~~ determines that the continued operation  
 46 of such district is administratively practicable and feasible, it shall  
 47 record such determination and deny ~~this~~ the petition. If the commission  
 48 ~~shall~~ determines that the continued operation of such district is not admin-  
 49 istratively practicable and feasible, it shall record such determination

1 and shall certify such determination to the supervisors of the district. In  
 2 making such determination the commission shall give due regard and weight to  
 3 the attitudes of the owners of lands lying within the district, the number  
 4 of residents eligible to vote in the election who shall have voted, the  
 5 proportion of the votes cast in the election in favor of the discontinuance  
 6 of the district to the total number of votes cast, the approximate wealth and  
 7 income of the landowners of the district, the probable expense of carrying  
 8 on such erosion-control operations within such district, and such other  
 9 economic and social factors as may be relevant to such determination, having  
 10 due regard to the legislative findings set forth in section 22-2716, Idaho  
 11 Code, provided, however, that the commission shall not have authority to  
 12 determine that the continued operation of the district is administratively  
 13 practicable and feasible unless at least a majority of the votes cast in the  
 14 election shall have been cast in favor of the continuance of such district.

15 (3) Upon receipt from the state soil and water conservation commission  
 16 of a certificate that the commission has determined that the continued op-  
 17 eration of the district is not administratively practicable and feasible,  
 18 pursuant to the provisions of this section, the supervisors shall forthwith  
 19 proceed to terminate the affairs of the district. The supervisors shall dis-  
 20 pose of all property belonging to the district at public auction and shall  
 21 pay over the proceeds of such sale to be covered into the state treasury. The  
 22 supervisors shall thereupon file an application duly verified, with the sec-  
 23 retary of state for the discontinuance of such district, and shall trans-  
 24 mit with such application the certificate of the state soil and water con-  
 25 servation commission setting forth the determination of the commission that  
 26 the continued operation of such district is not administratively practica-  
 27 ble and feasible. The application shall recite that the property of the dis-  
 28 trict has been disposed of and the proceeds paid over as in this section pro-  
 29 vided, and shall set forth a full accounting of such properties and proceeds  
 30 of the sale. The secretary of state shall issue to the supervisors a certifi-  
 31 cate of dissolution and shall record such certificate in an appropriate book  
 32 of record in his office.

33 (4) Upon issuance of a certificate of dissolution under the provisions  
 34 of this section, all contracts theretofore entered into, to which the dis-  
 35 trict or supervisors are parties, shall remain in force and effect for the  
 36 period provided in such contracts. The state soil and water conservation  
 37 commission shall be substituted for the district or supervisors as party to  
 38 such contracts.

39 (5) The state soil and water conservation commission shall not enter-  
 40 tain petitions for the discontinuance of any district nor conduct elections  
 41 upon such petitions nor make determinations pursuant to such petitions in  
 42 accordance with the provisions of this chapter, more often than once in five  
 43 (5) years.

44 SECTION 12. That Section 22-2727, Idaho Code, be, and the same is hereby  
 45 amended to read as follows:

46 22-2727. ALLOCATION OF FUNDS TO DISTRICTS. (1) A public hearing shall  
 47 be held by the ~~Idaho~~ state soil and water conservation commission on or  
 48 before June 15 of each year and twenty (20) days' written notice of such  
 49 hearing shall be given to each ~~Idaho~~ soil conservation district and to all



1 other persons requesting notice of such hearing. At the hearing the ~~Idaho~~  
 2 state soil and water conservation commission shall consider the needs of  
 3 each ~~Idaho~~ soil conservation district and shall base its request for state  
 4 funds for the ~~Idaho~~ soil conservation districts upon the budgets, budget  
 5 requests, district programs and work plans, and work load analysis of the  
 6 various soil conservation districts.

7 (2) All funds appropriated by the state for the various ~~Idaho~~ soil con-  
 8 servation districts shall be appropriated to the Idaho state soil and water  
 9 conservation commission and shall be allocated by the commission equally to  
 10 the various ~~Idaho~~ soil conservation districts on the basis of the criteria  
 11 established in ~~the preceding paragraph~~ subsection (1) of this section.

12 (3) Funds appropriated to the ~~Idaho~~ state soil and water conservation  
 13 commission for distribution to soil conservation districts shall be allo-  
 14 cated by the commission equally to the various soil conservation districts  
 15 in a sum not to exceed five eight thousand five hundred dollars (\$~~58,050~~0)  
 16 per district. All funds appropriated to the state soil and water conserva-  
 17 tion commission for distribution to soil conservation districts in excess  
 18 of five eight thousand five hundred dollars (\$~~58,050~~0) per district shall be  
 19 allocated by the commission to the various soil conservation districts in a  
 20 sum not to exceed twice the amount of funds or services allocated to each dis-  
 21 trict by the county commissioners in the previous fiscal year and funds or  
 22 services allocated to each district by authorized officials or other local  
 23 units of government or organizations in the previous fiscal year, provided  
 24 that any such allocation by the commission shall not exceed fifty thousand  
 25 dollars (\$50,000) to any one (1) district in a fiscal year.

26 (4) The ~~Idaho~~ state soil and water conservation commission shall adopt  
 27 ~~all rules and regulations~~ necessary to carry out the purposes of this sec-  
 28 tion.

29 SECTION 13. That Section 22-2730, Idaho Code, be, and the same is hereby  
 30 amended to read as follows:

31 22-2730. RESOURCE CONSERVATION AND RANGELAND DEVELOPMENT FUND CRE-  
 32 ATED. (1) There is hereby created in the state treasury a fund to be known as  
 33 the Idaho resource conservation and rangeland development fund, which shall  
 34 consist of all moneys which may be appropriated to it by the legislature or  
 35 made available to it from federal, private, or other sources. The state  
 36 treasurer is directed to invest all unobligated moneys in the fund. All  
 37 interest and other income accruing from such investments shall accrue to  
 38 the fund. The state soil and water conservation commission may expend from  
 39 the fund such sums as it shall deem necessary for any of the conservation  
 40 improvements, projects and programs provided for under this chapter under  
 41 such terms and conditions provided for in ~~its~~ the commission's rules and the  
 42 water quality program for agriculture.

43 (2) The state soil and water conservation commission shall establish a  
 44 priority list for conservation improvements, projects and the water quality  
 45 program for agriculture. The priority list shall be used as the method for  
 46 allocation of funds loaned under this chapter.

47 SECTION 14. That Section 22-2731, Idaho Code, be, and the same is hereby  
 48 amended to read as follows:

1        22-2731. ALLOCATION OF FUND. The Idaho resource conservation and  
 2        rangeland development fund shall be allocated for use by the state soil and  
 3        water conservation commission:

4        (1) ~~By the state soil conservation commission~~ To eligible applicants  
 5        for conservation improvements which it deems to be "in the public interest"  
 6        in such amounts as are necessary for the implementation of conservation mea-  
 7        sures identified in a conservation plan;

8        (2) ~~By the commission~~ To eligible applicants for the purpose of  
 9        conservation improvements on rangelands, agricultural lands, and ripar-  
 10        ian lands, which will provide environmental enhancement to soil, water,  
 11        wildlife, and related resources;

12        (3) ~~By the commission~~ For the purpose of implementing conservation im-  
 13        provements, projects and the water quality program for agriculture.

14        SECTION 15. That Section 22-2732, Idaho Code, be, and the same is hereby  
 15        amended to read as follows:

16        22-2732. LOANS FROM FUND -- APPLICATION -- APPROVAL -- REPAYMENT. (~~a~~1)  
 17        Eligible applicants may file an application with the local soil conservation  
 18        district or the state soil and water conservation commission for a loan from  
 19        the fund for the purpose of financing conservation improvement cost. Such  
 20        application shall be filed in such a manner, and shall be in such form, and be  
 21        accompanied by such information as may be prescribed by the commission. Any  
 22        such application filed with the district or the commission under the provi-  
 23        sions of this ~~act~~ chapter shall:

24        (~~1a~~a) Describe the nature and purposes of the improvements or projects;

25        (~~2b~~b) Set forth or be accompanied by a conservation plan approved by the  
 26        local soil conservation district or the commission that identifies the  
 27        conservation improvements, or projects, together with such technical  
 28        and economic feasibility data and estimated costs as may be required by  
 29        the commission;

30        (~~3c~~c) State whether money other than that for which application is made  
 31        under this ~~act~~ chapter will be used for improvement costs, and whether  
 32        such money is available or has been sought for this purpose;

33        (~~4d~~d) Show that the applicant holds or can acquire title to all lands or  
 34        has necessary easements and rights-of-way for the improvements; and

35        (~~5e~~e) Show the proposed project is feasible from a technical standpoint  
 36        and economically justified.

37        (~~b~~2) The local soil conservation districts and the commission shall  
 38        keep each other informed of applications received. Within sixty (60) days  
 39        of receipt of an application, the local soil conservation district or the  
 40        commission shall review and evaluate, and if it deems necessary, investigate  
 41        aspects of the proposed improvements. As part of such investigation, the  
 42        district or the commission shall determine whether the plan for development  
 43        of the conservation improvements is satisfactory. If the district or the  
 44        commission determines the plan is unsatisfactory, it shall return the appli-  
 45        cation to the applicant and may make such recommendations to the applicant  
 46        as are considered necessary to make the plan satisfactory. If the district  
 47        or the commission determines the plan and application are satisfactory, it  
 48        shall be considered for funding.

1       (~~e~~3) The commission may approve a loan for conservation improvements if  
 2 after review, evaluation, and investigation if necessary, it finds that:

3       (~~1~~a) The applicant is qualified and responsible;

4       (~~2~~b) There is reasonable assurance that the borrower can repay the  
 5 loan; and

6       (~~3~~c) That money in the resource conservation and rangeland development  
 7 fund is available for the loan.

8       (~~e~~4) If the commission approves a loan, the applicant shall execute a  
 9 promissory note for repayment to the account of money loaned therefrom, to-  
 10 gether with interest not to exceed six percent (6%) annually as determined by  
 11 the commission. The note shall further provide that repayment of the loan,  
 12 together with interest thereon, shall commence not later than two (2) full  
 13 years from the date the note is signed. Repayment shall be completed within  
 14 the time period specified by the commission not to exceed fifteen (15) years,  
 15 except that the commission may extend the time for making repayment in event  
 16 of emergency or hardship. Such agreement shall also provide for such assur-  
 17 ance of, and security for, repayment of the loan as are considered necessary  
 18 by the commission.

19       (~~e~~5) Upon approval of the loan and securing all necessary documents,  
 20 the commission will make available, in approved form, project or contract  
 21 funding.

22       (~~f~~6) If an applicant fails to comply with the repayment contract, the  
 23 interest in the improvement may be conveyed to a successor upon approval by  
 24 the commission, which may contract with the qualified successor in inter-  
 25 est of the original obligor for repayment of the loan, together with interest  
 26 thereon, and for succession to its rights and obligation in any contract with  
 27 the commission.

28       SECTION 16. That Section 22-2733, Idaho Code, be, and the same is hereby  
 29 amended to read as follows:

30       22-2733. GRANTS FROM STATE SOIL AND WATER CONSERVATION COMMISSION  
 31 GENERAL FUND -- APPLICATION -- APPROVAL -- GRANT AGREEMENT. (1) Eligible  
 32 applicants or participants may file an application with the local soil  
 33 conservation district or the state soil and water conservation commission  
 34 for a grant from the state soil and water conservation commission general  
 35 fund for the purpose of financing conservation improvements, projects, and  
 36 implementation of the water quality program for agriculture. Such  
 37 application shall be filed in such a manner and shall be in such form, and  
 38 be accompanied by such information as may be prescribed by the commission;  
 39 provided, however, ~~that~~ any such application filed with the district or the  
 40 commission under the provisions of this section shall:

41       (a) Describe the nature and purpose of the improvements or conservation  
 42 plan implementation project-;.

43       (b) Set forth or be accompanied by an improvement project plan approved  
 44 by the local soil conservation district or the commission that iden-  
 45 tifies the practices to be applied, together with such technical and  
 46 economic feasibility data and estimated costs as may be required by the  
 47 commission-;.

48       (c) State whether money other than that for which application is made  
 49 under this section will be used for improvement project or conservation

1 plan implementation costs, and whether such money is available or has  
2 been sought for this purpose~~;~~ and

3 (d) Show that the applicant or participant holds or can acquire title to  
4 all lands or has necessary easements and rights-of-way to implement the  
5 project plan.

6 (2) The commission and local soil conservation district will keep each  
7 other informed of grant applications received. Within thirty (30) days  
8 of receipt of an application, the local soil conservation district or the  
9 commission shall review and evaluate and, if deemed necessary, investigate  
10 all aspects of the proposed improvement, project or conservation plan. As  
11 part of such investigation, the district or the commission shall determine  
12 whether the project plan is satisfactory. If the district or the commission  
13 determines that the plan is unsatisfactory, it shall return the application  
14 to the applicant or participant and the district or the commission may make  
15 such recommendations to the applicant or participant as are considered  
16 necessary to make the plan satisfactory. If the commission determines  
17 either the plan or a plan revised pursuant to recommendation of the district  
18 or commission is satisfactory, it shall be considered for funding.

19 (3) The commission may approve a grant if after review, evaluation~~7~~ and  
20 investigation if necessary, it finds that:

21 (a) The applicant or participant is qualified and responsible;

22 (b) The improvement, project~~7~~ or conservation plan demonstrates public  
23 benefits; and

24 (c) That money in the state soil and water conservation commission gen-  
25 eral fund is available for the grant.

26 (4) If the commission approves a grant, the applicant or participant  
27 shall enter into an agreement covering the grant offer and acceptance of the  
28 grant for implementing the improvement, project~~7~~ or conservation plan. The  
29 agreement shall be improvement, project~~7~~ or conservation plan specific. The  
30 terms and conditions shall be those specified by the commission.

31 (5) Upon approval of the grant and securing all necessary documents,  
32 the commission will make available, in the approved form, project or con-  
33 tract funding.

34 SECTION 17. That Section 22-2734, Idaho Code, be, and the same is hereby  
35 amended to read as follows:

36 22-2734. COST-SHARE FROM STATE SOIL AND WATER CONSERVATION COMMISSION  
37 GENERAL FUND -- APPLICATION -- APPROVAL. (1) Eligible applicants or partic-  
38 ipants may file an application with the local soil conservation district or  
39 the state soil and water conservation commission for a cost-share contract  
40 or project from the state soil and water conservation commission general  
41 fund for the purpose of financing agricultural, grazing or other conserva-  
42 tion improvements, projects or implementation of the water quality program  
43 for agriculture. Such application shall be filed in such a manner and shall  
44 be in such form and be accompanied by such information as may be prescribed by  
45 the commission; provided however, ~~that~~ any such application filed with the  
46 district or the commission under the provisions of this section shall:

47 (a) Describe the nature and purposes of the improvements and projects  
48 requiring cost-sharing;

(b) Set forth or be accompanied by a plan that identifies the conservation improvements or projects, together with such technical and economic feasibility data and estimated costs as may be required by the commission;

(c) State whether money other than that for which application is made under this section will be used for costs, and whether such money is available or has been sought for this purpose; and

(d) Show the proposed project is feasible from a technical standpoint and is economically justified.

(2) The commission and the local soil conservation district will keep each other informed of cost-share applications received. Within thirty (30) days of receipt of an application, the local soil conservation district or the commission shall review and evaluate and, if deemed necessary, investigate all aspects of the proposed contract or project. As part of such investigation, the district or the commission shall determine whether the plan for development of the conservation improvements or projects is satisfactory. If the district or the commission determines the plan is unsatisfactory, it shall return the application to the applicant or participant and the district or the commission may make such recommendations to the applicant or participant as are considered necessary to make the application satisfactory. When the commission determines either the application or an application revised pursuant to recommendation of the district or commission is satisfactory, it shall be considered for funding.

(3) The commission may approve a cost-share contract to an applicant or participant for conservation projects and improvements if, after review, evaluation and investigation, it finds that:

(a) The applicant or participant is qualified and responsible;

(b) The conservation improvement or project demonstrates public benefit;

(c) There is reasonable assurance that the applicant or participant will adhere to contract terms; and

(d) Money is available in the state soil and water conservation commission general fund for cost-share.

(4) Upon approval of the cost-share contract or cost-share grant, and securing of all necessary documents, the commission will make funding available.

SECTION 18. That Section 22-2735, Idaho Code, be, and the same is hereby amended to read as follows:

22-2735. PAYMENTS BY THE STATE SOIL AND WATER CONSERVATION COMMISSION -- RULES -- APPROVAL OF ATTORNEY GENERAL -- AUDIT OF PAYMENTS. (1) The commission may make payments not to exceed the estimated reasonable cost of an eligible improvement, project, or plan.

(2) The commission may, in the name of the state of Idaho, enter into contracts with approved applicants, and any such approved applicants may enter into a contract with the commission concerning eligible improvements, projects or plans. Any such contract may include such provisions as may be agreed upon by the parties thereto, and shall include, in substance, the following provisions:

1 (a) An estimate of the reasonable cost of the improvements, projects,  
2 or plans as determined by the commission;

3 (b) The terms under which the commission may unilaterally terminate the  
4 contract and/or seek repayment from the ~~application~~ applicant of sums  
5 already paid pursuant to the contract for noncompliance by the appli-  
6 cant with the terms and conditions of the contract and the provisions of  
7 this chapter;

8 (c) An agreement by the applicant binding for the life of the eligible  
9 improvements, projects or plans:

10 (i) To develop water quality plans for landowners and provide  
11 payments to landowners for installation of best management prac-  
12 tices;

13 (ii) To determine payment rates in conjunction with the commis-  
14 sion for best management practices;

15 (iii) To establish a method for administration and provisions for  
16 technical assistance to landowners in conjunction with the com-  
17 mission;

18 (iv) To allow the state to make payments up to the estimated rea-  
19 sonable cost for best management practices installation, techni-  
20 cal assistance and project administration of an eligible project;

21 (v) To develop and to secure the approval of the commission of  
22 plans for operation of the eligible project;

23 (vi) To ensure that the local matching share of the cost is pro-  
24 vided as applicable;

25 (vii) To assure an adequate level of landowner participation and  
26 application of best management practices to ensure water quality  
27 goals are met.

28 (3) The commission may enter into contracts to provide technical as-  
29 sistance to applicants that have entered agreements pursuant to this chap-  
30 ter. Any such contract may include such provisions agreed upon by the par-  
31 ties thereto, and shall include, in substance, the following provisions:

32 (a) An estimate of the reasonable cost of technical assistance;

33 (b) The terms under which the commission may unilaterally terminate the  
34 contract, and/or seek repayment of sums paid pursuant to the contract,  
35 for noncompliance by the applicants with the terms and conditions of  
36 the contract, the provisions of this chapter, or rules adopted pursuant  
37 thereto.

38 (4) The commission may enter into contracts and establish procedures to  
39 be followed in applying for eligible improvements, projects and plans herein  
40 authorized as shall be necessary for the effective administration of the wa-  
41 ter quality program for agriculture.

42 (5) All contracts entered into pursuant to this section shall be sub-  
43 ject to approval by the attorney general as to form. All payments by the  
44 state pursuant to such contracts shall be made after audit and upon warrant  
45 as provided by law on vouchers approved by the ~~the director~~ chairman and the  
46 administrator of the department of agriculture commission.

47 (6) All grant agreements and contracts previously entered into with the  
48 state board of health and welfare, soil conservation districts and the com-  
49 mission pursuant to section 39-3627, Idaho Code, for payments and adminis-

1 tration are now to be administered and payments implemented solely by the  
2 commission.

3 SECTION 19. That Section 22-5201, Idaho Code, be, and the same is hereby  
4 amended to read as follows:

5 22-5201. LEGISLATIVE INTENT. Increasing levels of carbon dioxide and  
6 other greenhouse gases in the atmosphere have led to growing interest in  
7 national and international forums for implementing measures to slow and  
8 reverse the buildup of such atmospheric constituents. Such measures may  
9 potentially include the establishment of systems of trading in credits for  
10 adoption of practices, technologies or other measures which decrease net  
11 emissions of carbon dioxide. Improved agricultural and timber production  
12 methods, soil and forest conservation practices and other methods of stew-  
13 ardship of soil and other land resources have great potential to increase  
14 carbon sequestration on agricultural and private forest lands and help  
15 offset carbon dioxide emissions from other sectors of the economy. It is  
16 in the interest of agricultural producers, nonindustrial private forest  
17 landowners and the public in general that the Idaho state soil and water  
18 conservation commission document and quantify carbon sequestration and  
19 greenhouse emissions reductions associated with agricultural and forestry  
20 practices, management systems and land uses occurring on cropland, forest  
21 land and rangeland in Idaho. It is the intent of the legislature that efforts  
22 to quantify and verify carbon sequestration on agricultural and forest lands  
23 will enhance the ability of the state's agricultural and nonindustrial pri-  
24 vate forest landowners to participate in any system of carbon sequestration  
25 marketing or trading.

26 SECTION 20. That Section 22-5202, Idaho Code, be, and the same is hereby  
27 amended to read as follows:

28 22-5202. CARBON SEQUESTRATION ADVISORY COMMITTEE CREATED -- MEMBER-  
29 SHIP -- COMPENSATION -- ADMINISTRATIVE ASSISTANCE. (1) The carbon seques-  
30 tration advisory committee is hereby created. The committee shall consist  
31 of the following nineteen (19) members, to be appointed by and serve at the  
32 pleasure of the governor:

- 33 (a) The chairman of the Idaho state soil and water conservation commis-  
34 sion or his designee;
- 35 (b) The director of the department of agriculture or his designee;
- 36 (c) The director of the department of environmental quality or his de-  
37 signee;
- 38 (d) The director of the department of lands or his designee;
- 39 (e) One (1) member representing the University of Idaho college of  
40 agriculture;
- 41 (f) One (1) member representing an entity which generates electrical  
42 energy;
- 43 (g) Two (2) members who are producers of field crops, at least one (1) of  
44 whom actively employs a minimum tillage management system in his farm-  
45 ing operation;
- 46 (h) Two (2) members who are producers of livestock, at least one (1) of  
47 whom is actively involved in implementing a rangeland improvement plan;

(i) One (1) member with expertise in carbon sequestration marketing or trading;

(j) One (1) member representing soil conservation districts, as defined in section 22-2717, Idaho Code;

(k) One (1) member representing the biofuels industry;

(l) One (1) member representing the transportation industry;

(m) One (1) member representing an environmental protection or conservation organization;

(n) One (1) member representing nonindustrial private forest landowners;

(o) One (1) member representing American Indian tribal interests;

(p) One (1) member whose expertise is geology; and

(q) One (1) member whose expertise is economics.

(2) Members of the committee shall be compensated as provided in section 59-509(b), Idaho Code.

(3) The Idaho state soil and water conservation commission shall assist the committee with administrative support as reasonably requested by the committee.

SECTION 21. That Section 22-5203, Idaho Code, be, and the same is hereby amended to read as follows:

22-5203. POWERS AND DUTIES OF THE CARBON SEQUESTRATION ADVISORY COMMITTEE. The carbon sequestration advisory committee may:

(1) Advise and assist the chairman of the Idaho state soil and water conservation commission in preparing the reports required by this chapter and in conducting the assessment pursuant to section 22-5205, Idaho Code;

(2) Recommend policies or programs to enhance the ability of Idaho agricultural and nonindustrial private forest landowners to participate in systems of carbon trading. Such recommendations shall include potential policies or programs designed to optimize economic benefits to agricultural producers and nonindustrial private forest landowners participating in carbon trading transactions. Such policies or programs may include, but are not limited to, identifying existing or the potential of creating nonprofit organizations or other public or private entities capable of serving as assemblers of carbon credits or as intermediaries on behalf of producers in carbon trading systems;

(3) Encourage the production of educational and advisory materials regarding carbon sequestration on agricultural and forest lands and participation in systems of carbon or greenhouse emissions trading;

(4) Identify and recommend areas of research needed to better understand and quantify the processes of carbon sequestration on agricultural and forest lands; and

(5) Review the carbon sequestration programs and policies of other states.

SECTION 22. That Section 22-5205, Idaho Code, be, and the same is hereby amended to read as follows:

22-5205. POWERS AND DUTIES OF THE CHAIRMAN. (1) In consultation with the carbon sequestration advisory committee, the chairman of the Idaho



1 state soil and water conservation commission shall assess agricultural  
 2 and private forest lands in Idaho for past carbon sequestration and future  
 3 carbon sequestration potential. The assessment shall seek to quantify  
 4 carbon sequestration associated with various agricultural and forestry  
 5 practices, management systems and land uses occurring on agricultural and  
 6 forest lands in this state. On or before March 1, 2003, the chairman shall  
 7 publish a report of the findings. From time to time, the chairman may update  
 8 the findings as advancements in understanding of the processes of carbon  
 9 sequestration and new data become available.

10 (2) The assessment shall be conducted in a manner that shall provide a  
 11 means for owners of agricultural and forest land to estimate past and future  
 12 net carbon sequestration resulting from agricultural and forestry prac-  
 13 tices, conservation measures, management systems and land uses occurring on  
 14 their property. The chairman of the Idaho state soil and water conservation  
 15 commission may contract and cooperate with the natural resources conser-  
 16 vation service of the United States department of agriculture to conduct  
 17 assessment activities provided for in this section.

18 (3) The Idaho state soil and water conservation commission may apply  
 19 for and accept grants, gifts or other sources of public and private funds to  
 20 carry out the purposes of this chapter.

21 SECTION 23. That Section 22-5206, Idaho Code, be, and the same is hereby  
 22 amended to read as follows:

23 22-5206. CARBON SEQUESTRATION ASSESSMENT FUND CREATED. There is  
 24 hereby created and established in the state treasury a fund to be known as  
 25 the "Carbon Sequestration Assessment Fund," which shall consist of such  
 26 funds, grants, donations or moneys from other sources. The fund shall be  
 27 administered by the Idaho state soil and water conservation commission in  
 28 order to carry out the purposes of this chapter. Moneys in the fund may be  
 29 expended pursuant to appropriation. Any interest earned on the investment  
 30 of idle moneys in the fund shall be returned to the fund.

31 SECTION 24. That Section 36-2404, Idaho Code, be, and the same is hereby  
 32 amended to read as follows:

33 36-2404. STATE DELISTING MANAGEMENT PLAN REQUIREMENTS. (1) The  
 34 delisting advisory team shall develop a state management plan for a species  
 35 in response to all notification of intent to delist the species by the secre-  
 36 tary of interior or secretary of commerce or sooner if deemed appropriate.  
 37 The state management plan shall provide for the management and conservation  
 38 of the species once it is delisted, and contain sufficient safeguards to  
 39 protect the health, safety, private property and economic well-being of the  
 40 citizens of the state of Idaho.

41 (2) The department of fish and game shall provide the delisting advi-  
 42 sory teams, the informational, technical or other needs and requirements of  
 43 those teams in the performance of their duties.

44 (3) In developing state delisting management plans, the delisting  
 45 advisory team shall consult with the appropriate state agencies, commis-  
 46 sions and boards. The appropriate state agency for wildlife biological  
 47 and species management issues, and for plant life biological and species

management issues is the department of fish and game. The appropriate state agency for timber harvest activities, oil and gas exploration activities and for mining activities is the department of lands. The appropriate state agencies for agricultural activities are the department of agriculture and the Idaho state soil and water conservation commission. The appropriate state agency for public road construction is the transportation department. The appropriate state agency for water rights is the department of water resources. The appropriate state agency for water quality is the department of environmental quality. The appropriate state agency for outfitting and guiding activities is the Idaho outfitters and guides licensing board.

SECTION 25. That Section 39-3602, Idaho Code, be, and the same is hereby amended to read as follows:

39-3602. DEFINITIONS. Whenever used or referred to in this chapter, unless a different meaning clearly appears from the context, the following terms shall have the following meanings:

(1) "Applicable water quality standard" means those water quality standards identified in the rules of the department.

(2) "Attainable" beneficial uses means uses that can be achieved by the implementation of required effluent limits for point sources and cost-effective and reasonable best management practices for nonpoint sources.

(3) "Best management practice" means practices, techniques or measures developed, or identified, by the designated agency and identified in the state water quality management plan which are determined to be a cost-effective and practicable means of preventing or reducing pollutants generated from nonpoint sources to a level compatible with water quality goals.

(4) "Board" means the board of environmental quality.

(5) "Control strategies" means cost-effective actions in TMDL implementation plans to control the discharge of pollutants that can reasonably be taken to improve the water quality within the physical, operational, economic and other constraints that affect individual enterprises and communities.

(6) "Department" means the department of environmental quality.

(7) "Designated agency" means the department of lands for timber harvest activities, for oil and gas exploration and development and for mining activities; the soil and water conservation commission for grazing activities and for agricultural activities; the transportation department for public road construction; the department of agriculture for aquaculture; and the department of environmental quality for all other activities.

(8) "Designated use or designated beneficial use" means those uses assigned to waters as identified in the rules of the department whether or not the uses are being attained. The department may adopt subcategories of a use.

(9) "Director" means the director of the department of environmental quality, or his or her designee.

(10) "Discharge" means any spilling, leaking, emitting, escaping, leaching, or disposing of a pollutant into the waters of the state. For the purposes of this chapter, discharge shall not include surface water runoff from nonpoint sources or natural soil disturbing events.

1 (11) "Existing use" means those surface water uses actually attained on  
2 or after November 28, 1975, whether or not they are designated uses. Exist-  
3 ing uses may form the basis for subcategories of designated uses.

4 (12) "Full protection, full support, or full maintenance of designated  
5 beneficial uses of water" means compliance with those levels of water  
6 quality criteria listed in the appropriate rules of the department, or where  
7 there is no applicable numerical criteria, compliance with the reference  
8 streams or conditions approved by the director in consultation with the  
9 appropriate basin advisory group.

10 (13) "Lower water quality" means a measurable adverse change in a chem-  
11 ical, physical, or biological parameter of water relevant to a designated  
12 beneficial use, and which can be expressed numerically. Measurable adverse  
13 change is determined by a statistically significant difference between sam-  
14 ple means using standard methods for analysis and statistical interpreta-  
15 tion appropriate to the parameter. Statistical significance is defined as  
16 the ninety-five percent (95%) confidence limit when significance is not oth-  
17 erwise defined for the parameter in standard methods or practices.

18 (14) "National pollutant discharge elimination system (NPDES)" means  
19 the point source permitting program established pursuant to section 402 of  
20 the federal clean water act.

21 (15) "New nonpoint source activity" means a new nonpoint source ac-  
22 tivity or a substantially modified existing nonpoint source activity on or  
23 adversely affecting an outstanding resource water which includes, but is  
24 not limited to, new silvicultural activities, new mining activities and  
25 substantial modifications to an existing mining permit or approved plan,  
26 new recreational activities and substantial modifications to existing  
27 recreational activities, new residential or commercial development that  
28 includes soil disturbing activities, new grazing activities and substantial  
29 modifications to existing grazing activities, except that reissuance of  
30 existing grazing permits, or grazing activities and practices authorized  
31 under an existing permit, is not considered a new activity. It does not  
32 include naturally occurring events such as floods, landslides, and wildfire  
33 including prescribed natural fire.

34 (16) "Nonpoint source activities" includes grazing, crop production,  
35 silviculture, log storage or rafting, construction, mining, recreation,  
36 septic systems, runoff from storms and other weather related events and  
37 other activities not subject to regulation under the federal national  
38 pollutant discharge elimination system. Nonpoint source activities on  
39 waters designated as outstanding resource waters do not include issuance of  
40 water rights permits or licenses, allocation of water rights, operation of  
41 diversions, or impoundments.

42 (17) "Nonpoint source runoff" means water which may carry pollutants  
43 from nonpoint source activities into the waters of the state.

44 (18) "Outstanding resource water" means a high quality water, such  
45 as water of national and state parks and wildlife refuges and water of  
46 exceptional recreational or ecological significance, which has been so  
47 designated by the legislature. It constitutes an outstanding national  
48 or state resource that requires protection from point source and nonpoint  
49 source activities that may lower water quality.

1       (19) "Person" means any individual, association, partnership, firm,  
2 joint stock company, joint venture, trust, estate, political subdivision,  
3 public or private corporation, state or federal governmental department,  
4 agency or instrumentality, or any legal entity, which is recognized by law as  
5 the subject of rights and duties.

6       (20) "Point source" means any discernible, confined, and discrete  
7 conveyance including, but not limited to, any pipe, ditch, channel, tunnel,  
8 conduit, well, discrete fissure, container, rolling stock, concentrated  
9 animal feeding operation, or vessel or other floating craft, from which  
10 pollutants are, or may be, discharged. This term does not include return  
11 flows from irrigated agriculture, discharges from dams and hydroelectric  
12 generating facilities or any source or activity considered a nonpoint source  
13 by definition.

14       (21) "Pollutant" means dredged spoil, solid waste, incinerator  
15 residue, sewage, garbage, sewage sludge, munitions, chemical waste, bi-  
16 ological materials, radioactive materials, heat, wrecked or discarded  
17 equipment, rock, sand, silt, cellar dirt; and industrial, municipal and  
18 agricultural waste, gases entrained in water; or other materials which, when  
19 discharged or released to water in excessive quantities cause or contribute  
20 to water pollution. Provided however, biological materials shall not  
21 include live or occasional dead fish that may accidentally escape into the  
22 waters of the state from aquaculture facilities.

23       (22) "Reference stream or condition" means one (1) of the following:

24       (a) The minimum biological, physical and chemical conditions necessary  
25 to fully support the designated beneficial uses; or

26       (b) A water body representing natural conditions with few impacts from  
27 human activities and which are representative of the highest level of  
28 support attainable in the basin; or

29       (c) A water body representing minimum conditions necessary to fully  
30 support the designated beneficial uses.

31 In highly mineralized areas or in the absence of such reference streams or  
32 water bodies, the director, in consultation with the basin advisory group  
33 and the technical advisers to it, may define appropriate hypothetical refer-  
34 ence conditions or may use monitoring data specific to the site in question  
35 to determine conditions in which the beneficial uses are fully supported.

36       (23) "Short-term or temporary activity" means an activity which is lim-  
37 ited in scope and is expected to have only minimal impact on water quality  
38 as determined by the director. Short-term or temporary activities include,  
39 but are not limited to, maintenance of existing structures, limited road and  
40 trail reconstruction, soil stabilization measures, and habitat enhancement  
41 structures.

42       (24) "Silviculture" means those activities associated with the regen-  
43 eration, growing and harvesting of trees and timber including, but not lim-  
44 ited to, disposal of logging slash, preparing sites for new stands of trees  
45 to be either planted or allowed to regenerate through natural means, road  
46 construction and road maintenance, drainage of surface water which inhibits  
47 tree growth or logging operations, fertilization, application of herbicides  
48 or pesticides, all logging operations, and all forest management techniques  
49 employed to enhance the growth of stands of trees or timber.

1 (25) "Soil and water conservation commission" means an agency of state  
2 government as created in section 22-2718, Idaho Code.

3 (26) "Soil conservation district" means an entity of state government  
4 as defined in section 22-2717, Idaho Code.

5 (27) "State" means the state of Idaho.

6 (28) "State water quality management plan" means the state management  
7 plan developed and updated by the department in accordance with sections  
8 205, 208, and 303 of the federal clean water act.

9 (29) "Subbasin assessment" means a document that describes a watershed  
10 or watersheds for which a total maximum daily load is proposed, the water  
11 quality concerns, the status and attainability of designated uses and wa-  
12 ter quality criteria for individual water bodies, the nature and location of  
13 pollutant sources, past and ongoing pollutant control activities, and such  
14 other information that the director with the advice of the local watershed  
15 advisory group determines is pertinent to the analysis of water quality and  
16 the development and implementation of a total maximum daily load.

17 (30) "Total maximum daily load (TMDL)" means a plan for a water body  
18 not fully supporting designated beneficial uses and includes the sum of the  
19 individual wasteload allocations for point sources, load allocations for  
20 nonpoint sources, and natural background levels of the pollutant impacting  
21 the water body. Pollutant allocations established through TMDLs shall be at  
22 a level necessary to implement the applicable water quality standards for  
23 the identified pollutants with seasonal variations and a margin of safety to  
24 account for uncertainty concerning the relationship between the pollutant  
25 loading and water quality standards.

26 (31) "Waters or water body" means all the accumulations of surface wa-  
27 ter, natural and artificial, public and private, or parts thereof which are  
28 wholly or partially within, flow through or border upon this state. For the  
29 purposes of this chapter, water bodies shall not include municipal or indus-  
30 trial wastewater treatment or storage structures or private reservoirs, the  
31 operation of which has no effect on waters of the state.

32 (32) "Water pollution" is such alteration of the thermal, chemical, bi-  
33 ological or radioactive properties of any waters of the state, or such dis-  
34 charge or release of any contaminant into the waters of the state as will  
35 or is likely to create a nuisance or render such waters harmful or detri-  
36 mental or injurious to public health, safety or welfare or to domestic, com-  
37 mercial, industrial, recreational, aesthetic or other legitimate uses or to  
38 livestock, wild animals, birds, fish or other aquatic life.

39 (33) "Water quality standards" are the designated uses of a water  
40 body and water quality criteria necessary to support those uses, and an  
41 antidegradation policy.

42 (34) "Watersheds" means the land area from which water flows into a  
43 stream or other body of water which drains the area. For the purposes of this  
44 chapter, the area of watersheds shall be recommended by the basin advisory  
45 group described in section 39-3613, Idaho Code.

46 SECTION 26. That Section 39-6407, Idaho Code, be, and the same is hereby  
47 amended to read as follows:

48 39-6407. TECHNICAL ADVISORY GROUP. To assist in its objectives, the  
49 council shall create a technical advisory group which may include the desig-

1 nated representatives of the public health district, city and county plan-  
 2 ning or engineering departments, ~~D~~department of ~~E~~environmental ~~E~~quality,  
 3 ~~D~~department of ~~L~~lands, ~~D~~department of ~~F~~fish and ~~G~~game, ~~D~~department of  
 4 ~~P~~parks and ~~R~~recreation, ~~D~~department of ~~W~~water ~~R~~resources, ~~S~~state ~~S~~soil  
 5 and water ~~C~~conservation ~~C~~commission, United States ~~F~~forest ~~S~~service,  
 6 United States ~~B~~bureau of ~~L~~land ~~M~~management, United States ~~A~~army ~~C~~corps of  
 7 ~~E~~engineers, United States ~~A~~gricultural ~~C~~conservation and ~~S~~tabilization  
 8 ~~S~~services, United States ~~E~~environmental ~~P~~rotection ~~A~~gency, United States  
 9 ~~G~~eological ~~S~~urvey or any one (1) or more of said agencies and such rep-  
 10 resentatives of agriculture, conservation, forest products, sportsmen  
 11 and mining interests as may be appointed by the county. Indian tribes may  
 12 nominate a representative for the technical advisory group to the county for  
 13 appointment to the group. Members shall serve without state compensation  
 14 except such normal compensation received by members who are state employees  
 15 serving in the normal course and scope of their employment.

16 SECTION 27. That Section 39-6609, Idaho Code, be, and the same is hereby  
 17 amended to read as follows:

18 39-6609. TECHNICAL COMMITTEE. To assist in the development of its  
 19 program, the council shall create a technical committee which may include,  
 20 but is not exclusively limited to, designated representatives of the public  
 21 health district, city and county planning or engineering departments, the  
 22 county planning and zoning commission, the McCall water and sewer district,  
 23 department of environmental quality, department of lands, department of  
 24 fish and game, department of parks and recreation, department of water  
 25 resources, state soil and water conservation commission, United States  
 26 forest service, United States army corps of engineers, United States  
 27 agricultural conservation and stabilization services, United States ~~soil~~  
 28 natural resources conservation service, United States geological survey,  
 29 United States environmental protection agency and representatives proposed  
 30 by interests in agriculture, environmental protection, forest products,  
 31 sporting and mining. Indian tribes may nominate a representative for the  
 32 technical committee. Members shall serve without state compensation except  
 33 such normal compensation received by members who are state, city, county,  
 34 district or federal employees serving in the normal course and scope of their  
 35 employment.

36 SECTION 28. That Section 42-3703, Idaho Code, be, and the same is hereby  
 37 amended to read as follows:

38 42-3703. DEFINITIONS. Whenever used or referred to in this act, unless  
 39 a different meaning clearly appears from the context, the following terms  
 40 shall have the following meanings:

41 1. "District" or "watershed improvement district" means a governmental  
 42 subdivision of this state and a public body corporate and politic organized  
 43 in accordance with the provisions of this act for the purposes, with the pow-  
 44 ers, and subject to the restrictions hereinafter set forth.

45 2. "Director" means one (1) of the members of the governing body of a  
 46 district elected or appointed in accordance with the provisions of this act.

1        3. "Commission" or "state soil and water conservation commission"  
2 means the agency created in section 22-2718, Idaho Code.

3        4. "Petition" means a petition filed under the provisions of section  
4 42-3705, Idaho Code, for the creation of a district.

5        5. "Nominating petition" means a petition filed under the provisions of  
6 section 42-3706, Idaho Code, to nominate a candidate for the office of direc-  
7 tor of a watershed improvement district.

8        6. "State" means the state of Idaho.

9        7. "Landowner" includes any person, firm or corporation who shall hold  
10 title to any lands lying within a district organized under the provisions of  
11 this act. A contract purchaser who is occupying the land shall be construed  
12 as a landowner.

13       8. "Qualified elector" means any natural person residing within the  
14 boundaries of the state of Idaho, owning land within the boundaries of the  
15 district, and qualified under the laws of this state to vote in an election  
16 by the people.

17       SECTION 29. That Section 42-3705, Idaho Code, be, and the same is hereby  
18 amended to read as follows:

19       42-3705. CREATION OF WATERSHED IMPROVEMENT DISTRICTS. Any fifteen  
20 (15) owners of land lying within the limits of the territory proposed to be  
21 organized into a watershed improvement district may file a petition with  
22 the state soil and water conservation commission asking that a watershed  
23 improvement district be organized to function in the territory described  
24 in the petition. In the event that there are less than fifteen (15) persons  
25 owning land lying within the limits of the territory proposed to be organized  
26 into a district, then and in that case such petition will be deemed suffi-  
27 cient if it contains the signatures of two-thirds (2/3) of the owners of land  
28 and representing two-thirds (2/3) of the acreage of land lying within the  
29 limits of the said territory. Such petition shall set forth:

30       1. A description of the territory proposed to be organized as a water-  
31 shed improvement district, which description shall be deemed sufficient if  
32 generally accurate.

33       2. That there is need, in the interest of the public health, safety, and  
34 general welfare for a watershed improvement district to function in the ter-  
35 ritory described in the petition.

36       3. The proposed name of said district.

37       4. A request that the state soil and water conservation commission duly  
38 define the boundaries for such district; that an election be held within the  
39 territory so defined on the question of the creation of a watershed improve-  
40 ment district in such territory.

41       After such petition has been filed with the state soil and water con-  
42 servation commission it shall be the duty of the commission to define by  
43 metes and bounds or by legal subdivisions the boundaries of such proposed  
44 district, and to hold an election, subject to the provisions of section  
45 34-106, Idaho Code, within the proposed district upon the proposition of  
46 the creation of the district, and to cause notice of such election to be  
47 given. The question shall be submitted by ballots upon which the words "For  
48 creation of a watershed improvement district of the lands below described  
49 and lying in the county(ies) of ....., ..... and ....." and "Against creation

1 of a watershed improvement district of the lands below described and lying  
 2 in the county(ies) of . . . . , . . . . and . . . . " shall appear with a square before  
 3 each proposition and a direction to insert an X mark in the square before one  
 4 or the other of said propositions as the voter may favor or oppose creation  
 5 of such district. The ballot shall set forth the boundaries of such proposed  
 6 district as determined by the state soil and water conservation commission.

7 All qualified electors who own land within the proposed district shall  
 8 be eligible to vote in the election.

9 The state soil and water conservation commission shall pay all expenses  
 10 of, and supervise the conduct of, such election. The commission shall con-  
 11 duct the election as provided in chapter 14, title 34, Idaho Code. No in-  
 12 formality in the conduct of such election or in any matter relating thereto  
 13 shall invalidate said election or the result thereof if notice thereof shall  
 14 have been given substantially as herein provided, and said election shall  
 15 have been fairly conducted.

16 If the election shall result in a majority of votes being cast in favor  
 17 of the creation of such proposed district the state soil and water conserva-  
 18 tion commission shall proceed with the organization of the district in the  
 19 manner hereinafter provided, to wit:

20 1. The state soil and water conservation commission shall appoint one  
 21 (1) director to act with the two (2) directors elected as hereinafter pro-  
 22 vided, which said directors shall be the governing body of the district.

23 2. The state soil and water conservation commission shall present to  
 24 the secretary of state a certificate stating:

25 (a) That a petition for the creation of said district was filed with the  
 26 state soil and water conservation commission.

27 (b) The name and residence of the directors appointed by said commis-  
 28 sion.

29 (c) The name which is proposed for said district.

30 (d) That an election on such petition was held, and that the majority of  
 31 votes cast in said election favored the formation of the district.

32 The secretary of state shall receive, file and record said certificate  
 33 of the state soil and water conservation commission, and when said certifi-  
 34 cate shall be filed and recorded the district shall constitute a governmen-  
 35 tal subdivision of this state and a public body corporate and politic. The  
 36 secretary of state shall make and issue to the said directors a certificate  
 37 of the due organization of the said district.

38 SECTION 30. That Section 42-3706, Idaho Code, be, and the same is hereby  
 39 amended to read as follows:

40 42-3706. ELECTION OF DISTRICT DIRECTORS. After the date of issuance of  
 41 the secretary of state of a certificate of organization of a watershed im-  
 42 provement district nominating petitions may be filed with the state soil and  
 43 water conservation commission to nominate candidates for directors of such  
 44 district. The state soil and water conservation commission shall give no-  
 45 tice of an election to be held, subject to the provisions of section 34-106,  
 46 Idaho Code, for the election of two (2) directors for the district. The names  
 47 of all nominees on behalf of whom such nominating petitions have been filed  
 48 in the manner provided in section 34-1404, Idaho Code, shall appear arranged  
 49 in the alphabetical order of the surnames upon ballots with a square before



each name, and direction to insert an X mark in the square before any two (2) names to designate the voter's preference. All qualified electors who own land or reside within the proposed district shall be eligible to vote in said election. The two (2) candidates who shall receive the largest number respectively of the votes cast in such election shall be elected for such district. The state soil and water conservation commission shall pay all the expenses of such election, supervise the conduct thereof, and publish the results thereof in accordance with the provisions of chapter 14, title 34, Idaho Code. All elections in existing districts following the first election shall be conducted by the district directors of the district involved who shall give notice of such elections and who shall bear the cost thereof.

In any election for director, if after the deadline for filing a declaration of intent as a write-in candidate, it appears that the number of qualified candidates who have been nominated for director positions is equal to the number of directors to be elected, it shall not be necessary for the candidates to stand for election, and the board of directors shall declare such candidates elected as directors, and the secretary of the district shall immediately make and deliver to such persons certificates of election.

SECTION 31. That Section 42-3707, Idaho Code, be, and the same is hereby amended to read as follows:

42-3707. APPOINTMENT, QUALIFICATIONS AND TENURE OF DIRECTORS. The governing body of the district shall consist of three (3) directors elected or appointed as provided hereinabove. The director appointed by the commission shall be an owner of land within the district and shall be a person who by training and experience is qualified to perform the specialized service which will be required in the performance of his duties hereunder. The term of office of each director shall be four (4) years, except that the director first appointed by the state soil and water conservation commission shall be designated to serve for a term of two (2) years from the date of his appointment. A director shall hold office until his successor has been elected or appointed, and has qualified. Vacancies shall be filled for an unexpired term by a majority of the directors duly qualified and acting at the time the vacancy shall arise. A majority of the directors shall constitute a quorum and the concurrence of a majority in any matter within their duties shall be required for its determination. A director shall receive no compensation for his service, but shall be entitled to expenses, including traveling expenses necessarily incurred in the discharge of his duties.

The directors may employ a secretary, technical experts, and such other employees, permanent and temporary, as they may require, and shall determine their qualifications, duties, and compensation. The directors may employ their own counsel and legal staff. The directors may delegate to their chairman, to one (1) or more directors, or to agents or employees such powers and duties as they may deem proper and necessary. The directors shall furnish to the state soil and water conservation commission, upon request, copies of such documents or other information concerning ~~their~~ the directors' activities as said commission may require in the performance of its duties under this ~~act~~ chapter. The directors shall provide for the keeping of a record of all proceedings, resolutions, regulations and orders issued or adopted; shall provide for an annual audit of its accounts, and shall provide

1 for the execution of surety bonds by any employee or officer who shall be en-  
2 trusted with funds or property of the district.

3 SECTION 32. That Section 42-3717, Idaho Code, be, and the same is hereby  
4 amended to read as follows:

5 42-3717. DISCONTINUANCE OF DISTRICTS. At any time after three (3)  
6 years after the organization of a district under the provisions of this chap-  
7 ter any twenty-five (25) qualified electors or owners of land lying within  
8 the boundaries of such district or, if less than twenty-five (25) owners of  
9 land or qualified electors reside within the boundaries of such district  
10 it would be deemed sufficient if two-thirds (2/3) of the resident group,  
11 may file a petition with the state soil and water conservation commission  
12 ~~praying requesting~~ that the operations of the district be terminated and  
13 the existence of the district discontinued. After such petition has been  
14 received by the state soil and water conservation commission it shall give  
15 notice of the holding of an election, subject to the provisions of section  
16 34-106, Idaho Code, which the said commission shall supervise and govern  
17 the conduct in accordance with the provisions of chapter 14, title 34, Idaho  
18 Code. The question to be submitted by ballots upon which the words "For  
19 terminating the existence of the (name of the watershed improvement district  
20 to be here inserted)" and "Against terminating the existence of the (name of  
21 the watershed improvement district to be inserted here)" shall appear with  
22 a square before each proposition, and a direction to insert an X mark in the  
23 square before one or the other of said propositions as the voter may favor  
24 or oppose discontinuance of such district. All qualified electors who own  
25 land or reside within the proposed district shall be eligible to vote in said  
26 election. No informality in the conduct of such election or in any matters  
27 relating thereto shall invalidate said election or the result thereof if  
28 notice thereof shall have been given as herein provided, and said election  
29 shall have been fairly conducted.

30 The state soil and water conservation commission shall certify the re-  
31 sult of such election to the directors of the district. If the state soil  
32 and water conservation commission shall certify that a majority of the votes  
33 cast in said election favor the discontinuance of the existence of the dis-  
34 trict, the directors of the district shall forthwith proceed to terminate  
35 the affairs of the district. Any moneys remaining in the treasury of said  
36 district following the winding up of the affairs of the district shall be  
37 paid by the directors into the state treasury. The directors shall file an  
38 application duly verified with the secretary of state for the discontinu-  
39 ance of such district which shall recite that the affairs of the district  
40 have been wound up, and shall set forth a full accounting of the winding up  
41 of the affairs of said district. The secretary of state shall issue to the  
42 directors a certificate of dissolution, and shall record said certificate in  
43 his office.

44 The state soil and water conservation commission shall not entertain  
45 petitions for the discontinuance of any district nor conduct elections upon  
46 such petitions more often than once in three (3) years.

47 SECTION 33. That Section 67-818, Idaho Code, be, and the same is hereby  
48 amended to read as follows:

67-818. COORDINATION OF POLICY AND PROGRAMS RELATED TO THREATENED SPECIES AND ENDANGERED SPECIES IN IDAHO. (1) There is hereby created in the office of the governor, the "Office of Species Conservation." The administrator of the office of species conservation shall be the official in the state designated to oversee implementation of federal recovery plans, as provided in 16 U.S.C. section 1533(f), and to fulfill the duties provided by this section. The administrator shall be appointed by, and serve at the pleasure of, the governor and shall be subject to confirmation by the state senate.

(2) The duties of the office of species conservation shall include:

(a) Coordination of all state departments and divisions with duties and responsibilities affecting endangered species, threatened species, candidate species, species petitioned to be listed, and rare and declining species as defined in section 36-2401, Idaho Code;

(b) Coordinating state implementation and response to federal recovery plans, biological opinions, guidance and projects among all state and local governments in the state of Idaho;

(c) Participation in regional efforts to cooperatively address endangered species, threatened species, candidate and petitioned species, and rare and declining species;

(d) Providing input and comment to federal and state agencies, and tribes on issues relating to endangered species, threatened species, candidate and petitioned species, and rare and declining species;

(e) Cooperating and consulting with the department of fish and game, the department of lands, the department of water resources, the department of agriculture, and the department of parks and recreation regarding agreements pursuant to 16 U.S.C. section 1533, 16 U.S.C. section 1535 and 16 U.S.C. section 1539;

(f) Negotiating agreements with federal agencies concerning endangered species, threatened species, candidate species, petitioned species, and rare and declining species including, but not limited to, agreements pursuant to 16 U.S.C. section 1533(d) and 16 U.S.C. section 1539(a), other than those agreements negotiated pursuant to 16 U.S.C. section 1535;

(g) Providing the people of the state of Idaho with an ombudsman who can listen to citizens being harmed or hindered by the regulations of the ESA and direct them to the appropriate state or federal agency and/or speak on their behalf, as deemed appropriate by the ombudsman, to address issues or concerns related to the ESA;

(h) Serve as a repository for agreements and plans among governmental entities in the state of Idaho for the conservation of rare and declining species, petitioned, candidate, threatened and endangered species.

(3) State policy and management plans developed pursuant to this section shall be developed in accordance with the following subsections:

(a) State policy on rare and declining, petitioned, candidate, threatened, and endangered species and state management plans shall be developed in consultation with the appropriate state agencies. The appropriate state agency for wildlife and plant management issues is the department of fish and game. The appropriate state agency for timber harvest activities, oil and gas exploration activities and for mining

1 activities is the department of lands. The appropriate state agencies  
2 for agricultural activities are the department of agriculture and the  
3 Idaho state soil and water conservation commission. The appropriate  
4 state agency for public road construction is the transportation depart-  
5 ment. The appropriate state agency for water rights is the department  
6 of water resources. The appropriate state agency for water quality  
7 is the department of environmental quality. The appropriate state  
8 agency for outfitting and guiding activities is the Idaho outfitters  
9 and guides licensing board;

10 (b) State management plans shall be the policy of the state of Idaho,  
11 but are subject to legislative approval, amendment or rejection by con-  
12 current resolution. State management plans shall be subject to public  
13 notice and comment but shall not be subject to judicial review.

14 (4) The governor's office of species conservation shall prepare a re-  
15 port to the legislature recommending a plan to develop state conservation  
16 assessments and strategies for rare and declining species in the state of  
17 Idaho and submit that report and recommendation to the legislature. The re-  
18 port and recommendation are subject to legislative approval, amendment or  
19 rejection by concurrent resolution.

20 (5) No provision of this section shall be interpreted as to supersede,  
21 abrogate, injure or create rights to divert or store water and apply water to  
22 beneficial uses established under section 3, article XV of the constitution  
23 of the state of Idaho, and title 42, Idaho Code.